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5 COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
6 U.S. HOUSE OF REPRESENTATIVES,
7 WASHINGTON, D.C.
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12 INTERVIEW OF: R. ALEXANDER ACOSTA
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16 Friday, September 19, 2025
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18 Washington, D.C.
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21 The interview in the above matter was held in room 2247, Rayburn House Office Building,
22 commencing at 9:58 a.m.

23 Present: Representatives Comer, Biggs, Burchett, Lynch, Krishnamoorthi, Stansbury, Garcia,
24 Frost, Lee, Casar, Crockett, Subramanyam, Ansari, Min, and Walkinshaw.

Appearances:

For the COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM:

[REDACTED], GENERAL COUNSEL

[REDACTED], PROFESSIONAL STAFF MEMBER

[REDACTED], FELLOW

[REDACTED], COUNSEL, OVERSIGHT

[REDACTED], CHIEF COUNSEL FOR INVESTIGATIONS

[REDACTED], RESEARCH ASSISTANT

[REDACTED], STAFF DIRECTOR

[REDACTED], COUNSEL

[REDACTED], MINORITY DEPUTY STAFF DIRECTOR

[REDACTED], MINORITY POLICY DIRECTOR

[REDACTED], MINORITY STAFF DIRECTOR

[REDACTED], MINORITY COMMUNICATIONS DIRECTOR

[REDACTED], MINORITY STAFF ASSISTANT

[REDACTED], MINORITY COUNSEL

[REDACTED], MINORITY SENIOR COUNSEL

[REDACTED], MINORITY FELLOW

[REDACTED], MINORITY SENIOR ADVISOR

[REDACTED], MINORITY DEPUTY CHIEF OVERSIGHT COUNSEL

For R. ALEXANDER ACOSTA:

JEFFREY NEIMAN, ESQ.

JORDAN ESTEBAN, ESQ.

Neiman Mays Floch & Almeida PLLC

100 SE 3rd Avenue, Suite 805

Fort Lauderdale, FL 33394-0002

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1 Mr. [REDACTED]. We can go on the record.

2 This is a transcribed interview of Mr. R. Alexander Acosta, conducted by the House
3 Committee on Oversight and Government Reform under the authority granted to it pursuant to
4 House rule X.

5 Accordingly, House rule X grants the Committee broad jurisdiction for the Committee to
6 conduct investigations of any matter at any time.

7 The Committee may use the results of this investigation to inform legislative solutions to
8 improve Federal efforts to combat sex trafficking and reform the use of non-prosecution agreements
9 and/or plea agreements in sex crime investigations.

10 Additionally, the Committee is assessing possible legislation aimed at bolstering or otherwise
11 amending laws aimed at ethics disclosures for elected officials.

12 Can the witness please state his name and spell his last name for the record?

13 Mr. Acosta. Rene Alexander Acosta, A-c-o-s-t-a.

14 Mr. [REDACTED]. Thank you.

15 My name is [REDACTED], and I am the general counsel for Chairman James Comer.

16 Under the Committee on Oversight and Government Reform's Rules, you are allowed to have
17 counsel present to advise you during this interview.

18 Do you have counsel representing you in a personal capacity with you today?

19 Mr. Acosta. Yes, I do.

20 Mr. [REDACTED]. Will counsel please identify themselves?

21 Mr. Neiman. Good morning. Jeffrey Neiman, on behalf of Mr. Acosta.

22 Mr. Esteban. Jordan Esteban, on behalf of Mr. Acosta.

23 Mr. [REDACTED]. For the record, starting with the remainder of the majority staff, can the
24 additional staff members please introduce themselves with their name, title, and affiliation?

25 Mr. [REDACTED]. [REDACTED], chief counsel for investigations, with Chairman Comer.

1 Mr. [REDACTED], staff assistant for the majority.

2 Ms. [REDACTED], counsel for the majority.

3 Ms. [REDACTED], professional staff member for the majority.

4 Mr. [REDACTED], intern for majority.

5 Mr. [REDACTED], majority.

6 Mr. [REDACTED], chief counsel, minority.

7 Mr. [REDACTED], senior counsel, minority.

8 Mr. [REDACTED], fellow, minority.

9 Ms. [REDACTED], fellow, minority.

10 Mr. [REDACTED], minority.

11 Mr. [REDACTED], minority.

12 Mr. [REDACTED], senior advisor, minority.

13 Ms. [REDACTED], counsel, minority.

14 Mr. [REDACTED] Mr. Chairman?

15 Chairman Comer. James Comer, Chairman, House Oversight Committee.

16 Mr. [REDACTED] Thank you all.

17 Mr. Acosta, before we begin, I would like to go over the ground rules for this interview.

18 The questioning will proceed in rounds. The majority will ask questions for an hour, and
19 then the minority will have the opportunity to ask questions for an hour if they choose.

20 To the extent members have questions for the witness, they will be propounded during their
21 side's respective rounds.

22 There aren't any right now, but if there are members on the dais, we'd ask that they please
23 come down to the table to ask questions, not ask them from the dais.

24 The clock will stop if you need to confer with counsel, your counsel is speaking, and when
25 members or staff are speaking during the opposing side's rounds of questions.

1 We will alternate back and forth until there are no more questions.

2 Do you understand?

3 Mr. Acosta. Yes, I do.

4 Mr. [REDACTED]. There is a court reporter taking down everything I say and everything you say
5 to make a written record of the interview.

6 For the record to be clear, please wait until the staffer questioning you finishes each question
7 before you begin your answer, and the staffer will wait until you finish your response before
8 proceeding to the next question.

9 Further, to ensure the court reporter can properly record this deposition, please speak
10 clearly, concisely, and slowly. The court reporter cannot record nonverbal answers, such as
11 nodding or shaking your head, so it is important that you answer each question with an audible,
12 verbal answer.

13 Do you understand?

14 Mr. Acosta. Yes, I do.

15 Mr. [REDACTED]. Exhibits may be entered into the record. Majority exhibits will be identified
16 numerically; minority exhibits will be identified alphabetically.

17 We want you to answer our questions in the most complete and truthful manner possible, so
18 we will take our time. If you have any questions or do not fully understand the question, please let
19 us know. We will attempt to clarify, add context to, or rephrase our questions.

20 If we ask about specific conversations or events in the past and you are unable to recall the
21 exact words or details, you should testify to the substance of those conversations or events to the
22 best of your recollection. If you recall only a part of a conversation or event, you should give us
23 your best recollection of those events or parts of conversations that you do recall.

24 Do you understand?

25 Mr. Acosta. Yes, I do.

1 Let me add, because it was so long ago and because there have been so many reports along
2 the line, sometimes my recollection merges with what I've read, and I will try to distinguish.

3 Mr. [REDACTED] Thank you.

4 You are required by law to answer questions from Congress truthfully. This also applies to
5 questions posed by congressional staff in this interview.

6 Do you understand?

7 Mr. Acosta. Yes, I do.

8 Mr. [REDACTED]. If at any time you knowingly make false statements, you could be subject to
9 criminal prosecution, including but not limited to perjury.

10 Do you understand?

11 Mr. Acosta. Yes, I do.

12 Mr. [REDACTED]. This includes both knowingly providing false testimony but also stating that
13 you do not recall or remember something when, in fact, you do.

14 Do you understand?

15 Mr. Acosta. Yes, I do.

16 Mr. [REDACTED]. Furthermore, you cannot tell half-truths or exclude information necessary to
17 make statements accurate. You are required to provide all information that would make your
18 response truthful. A deliberate failure to disclose information can constitute a false statement.

19 Do you understand?

20 Mr. Acosta. Yes, I do.

21 Mr. [REDACTED]. Is there any reason you are unable to provide truthful testimony in today's
22 interview?

23 Mr. Acosta. There is not.

24 Mr. [REDACTED]. Please note that if you wish to assert a privilege over any statement today,
25 that assertion must comply with the Rules of the Committee on Oversight and Government Reform.

1 Pursuant to that, Committee rule 16(c)(1) states, "For the Chair to consider assertions of
2 privilege over testimony or statements, witnesses or entities must clearly state the specific privilege
3 being asserted and the reason for the assertion on or before the scheduled date of testimony or
4 appearance."

5 Do you understand?

6 Mr. Acosta. Yes, I do.

7 Mr. [REDACTED]. Ordinarily, we take a 5-minute break at the end of each hour of questioning,
8 but if you need a longer break or a break before that, please let us know, and we will be happy to
9 accommodate.

10 However, to the extent that there is a pending question, we would ask that you finish
11 answering the question before we take the break.

12 Do you understand?

13 Mr. Acosta. Yes, I do.

14 Mr. [REDACTED]. Do you have any questions before we begin?

15 Mr. Acosta. Not at this time.

16 Mr. [REDACTED]. Will Mr. Krishnamoorthi please identify himself?

17 Mr. Krishnamoorthi. Hello. I'm Congressman Raja Krishnamoorthi from Illinois.

18 Mr. [REDACTED]. Thank you.

19 The time reads 10:05, and we will begin our hour now.

20 EXAMINATION

21 BY MR. [REDACTED]:

22 Q Thank you again for being here voluntarily, and we appreciate your testimony.
23 I want to start briefly with your background and a couple questions surrounding that.
24 Where did you attend undergrad, and what year did you graduate?

25 A I attended Harvard College, and I graduated in 1990.

1 Q What was your degree in?

2 A Economics.

3 Q And then you went to Harvard for law school. Is that correct?

4 A That is correct.

5 Q In what year did you graduate?

6 A '94, I believe.

7 Q While in law school, did you ever have Mr. Dershowitz as a professor?

8 A I did not.

9 Q He taught at Harvard during your time there --

10 A He did teach at Harvard during my time.

11 Q -- but did not teach you directly.

12 A He did not teach me directly.

13 Q Did you ever have any interactions with Mr. Dershowitz while in law school?

14 A Not that I recall. I may have, but I don't recall them if I did.

15 Q And, then, did you have any interactions with Mr. Dershowitz prior to him being
16 retained by Mr. Epstein?

17 A Not that I recall.

18 Q After law school -- I believe right after law school, you became an associate at Kirkland &
19 Ellis. Is that correct?

20 A That is incorrect.

21 Q Okay.

22 A I clerked for a year.

23 Q Who did you clerk for?

24 A Sam Alito, then in the Third Circuit.

25 Q And then went to Kirkland & Ellis?

1 A And then I went to Kirkland & Ellis.

2 Q Did you ever work directly for Jay Lefkowitz while there?

3 A I don't recall if I worked directly for Mr. Lefkowitz. I did work directly for Mr. Starr in
4 one case.

5 Q Did you ever have any interactions with Mr. Lefkowitz while at Kirkland & Ellis?

6 A I did.

7 Q What were the nature of those interactions?

8 A He was a partner; I was an associate. Relatively small office back then. You -- known
9 in terms of partners.

10 Q All right. But he was never, like, your supervising partner on a case or anything?

11 A Not that I recall. At some point, I may have had a small assignment that I don't recall
12 for him, but I don't recall him being a supervising partner on a case. I don't -- he was not my
13 mentor. I don't recall any of those.

14 Q All right.

15 You then proceeded to serve multiple government positions, beginning with the Principal
16 Deputy Assistant Attorney General in the Civil Rights Division. Is that correct?

17 A In between that, I spent some years at the Ethics and Public Policy Center and some
18 time teaching at George Mason.

19 Q And then after Civil Rights Division, went to the National Labor Relations Board?

20 A That's correct.

21 Q And then came back to be the Assistant Attorney General in the Civil Rights Division?

22 A That is correct.

23 Q By that point, had you ever tried a criminal case?

24 A I had not.

25 Q And then you were appointed to be the U.S. attorney for the Southern District of

1 Florida?

2 A That is correct.

3 Q Do you recall about when you were appointed?

4 A Early in the second term of President Bush's Presidency.

5 Q 2005, 2006, something like that?

6 A 2005 --

7 Q Okay.

8 A -- at some point. It could be 2006, but I believe it was 2005, middle or late 2005.

9 Q And when did you leave that post?

10 A I believe it would have been summer of 2009.

11 Q And then in 2017 you were appointed as United States Secretary of Labor?

12 A That is correct.

13 Q And subsequently resigned from this position in summer of 2019?

14 A That is correct.

15 Q Did you resign over the Epstein case?

16 A I chose to resign because of concern that the Epstein case would distract from what I
17 was doing as Secretary of Labor.

18 Q Were you instructed to resign?

19 A I was not instructed to resign.

20 Q Have you ever met Mr. Epstein?

21 A I have not met Mr. Epstein.

22 Can I go back 1 minute?

23 Q Yes.

24 A I was neither instructed to resign, it wasn't suggested that I resign. It was entirely my
25 choice, my decision.

1 I remember calling a little bit after breakfast, asking to speak to the President, seeing him, and
2 then telling him that I thought it would be best for his administration if I stepped aside.

3 A trial at that point was pending. And I come from the school that these jobs are
4 temporary -- you step into them; you leave -- and if you become a distraction, it's time to go. So it
5 was entirely my choice.

6 Q And your resignation was post-arrest but pre-death-while-in-custody, correct?

7 A That is correct.

8 Q Have you ever met Ghislaine Maxwell?

9 A I have not.

10 Did I answer the question about meeting Mr. Epstein? I don't remember.

11 Q Yes. You said no, I believe.

12 A I have not met Mr. Epstein. I have never met -- is it "Giss-lane" or --

13 Q Ghislaine.

14 A -- Ghislaine Maxwell.

15 Q Do you recall if anyone in your U.S. Attorney's Office met with Mr. Epstein?

16 A Not to my knowledge.

17 Q What about with Ms. Maxwell?

18 A Not to my knowledge.

19 Q And throughout this, I'm going to say "U.S. Attorney's Office." We'll just say I'm
20 referencing the Southern District of Florida.

21 A Yeah, no, I understood that.

22 Q Okay. Perfect.

23 Have you ever met Sarah Kellen?

24 A Not to my knowledge.

25 Q Do you recall if anyone in the U.S. Attorney's Office met with her?

1 A I wouldn't -- I wouldn't have that information. It's possible one of our trial attorneys
2 did, but I would not know.

3 Q What about, have you ever met Nadia Marcinkova?

4 A I have not.

5 Q And same question. Do you recall if anyone in your office met with --

6 A I'm sorry. Can I back up? There was --

7 Q Yeah.

8 A There was a woman that we considered a victim but the State attorney did not
9 necessarily consider a victim, and that's -- that was my pause. I don't know if at some point -- I
10 don't know if that was Ms. Kellen or someone else. I don't know if at some point one of her trial
11 team or a case agent or someone met with that person.

12 Q Uh-huh.

13 A I can't speak to that. I did not meet with her.

14 Q Okay. Then I'll re-ask the -- to the best of your recollection, did anyone in your office
15 meet with Ms. Marcinkova?

16 A Not that I'm aware of. But, again --

17 Q But she could've been one of the people that your office characterized as a victim, the
18 State's -- didn't.

19 A There was some subgroup of victims that we thought -- we characterized as a victim, the
20 State's Attorney's Office did not, based on my recollection or based on what I've read. I don't know
21 if those individuals were interviewed or not by my attorneys. I simply can't speak to it.

22 Q Okay.

23 I've got two more, and --

24 A Sure.

25 Q -- if it's the same answer, it's the same answer.

1 Did you ever personally meet with Lesley Groff?

2 A Same answer.

3 Q And same answer for anyone in your office?

4 A The same answer, yes.

5 Q And then personally meet with Adriana Ross?

6 A Same answer --

7 Q And --

8 A -- on both.

9 Q On both. Thank you.

10 Just kind of, like, laying the foundation for what the U.S. attorney's job is versus what the
11 office does overall, in general or in your experience in the Southern District of Florida, are you made
12 aware of every Federal criminal investigation going on in the district?

13 A Certainly not.

14 The Southern District of Florida, depending how it's measured, one of the three or four
15 largest, depending if you're measuring it by caseload, by number of assistant United States attorneys.
16 We have several hundred. We, you know, while I was U.S. attorney, had the most active caseload
17 in terms of going to trials in the country.

18 And so, as U.S. attorney, my focus was much more at the policy level than at the
19 managing-a-particular-case level.

20 Q And, then, what sorts of cases would raise to your level?

21 A Issues that involved policy, issues that were particularly high-profile, issues where there
22 was some type of dispute among AUSAs or among my supervisory staff.

23 Q Can -- I'll let him sit. I'll ask a followup question, and then I'll move to him.

24 Can you explain what an issue involving policy would be? I can guess on the "high-profile"
25 and "dispute," but what would be a policy issue?

1 A An issue that would -- that would affect an interpretation of law. An issue where it
2 might be a novel approach. An issue where there might be an emphasis coming from Main Justice
3 in Washington, D.C., where they wanted us to focus on that particular issue, and then the question is,
4 how do we focus on that issue?

5 Q All right.

6 Mr. [REDACTED]: Mr. Lynch, would you mind identifying yourself for the record?

7 Mr. Lynch. Congressman Steve Lynch, Eighth Congressional District of Massachusetts and
8 member of the Oversight Committee.

9 Mr. [REDACTED]: Thank you, sir.

10 Mr. Lynch. Thank you.

11 BY MR. [REDACTED]:

12 Q You brought up issues that Main Justice might have more of a focus on advancing -- like,
13 prioritizing. Would a line AUSA be able to communicate with D.C. on a case, or would they need to
14 go through a supervisor or through you?

15 A I think that would depend on the case and the issues. There are several cases where
16 line AUSAs were talking with Washington because it was their issues and they had back-and-forth
17 with Criminal Division on a regular basis.

18 I would characterize the Southern District of Florida as much more -- much more permissive
19 of communications with Main Justice, as opposed to Main Justice might want more control between
20 communications between divisions.

21 Q And, then, what was the -- did the -- was the Epstein case high-profile, that it came
22 across your desk prior to the non-prosecution agreement?

23 A So I have no recollection that it came across my desk prior to that.

24 I have read in the OPR report -- and I have no reason to discredit what the OPR report
25 said -- that the prosecuting AUSA briefed the first assistant and myself on the case early on when the

1 decision -- the Palm Beach Police were very upset about what the State attorney had done.

2 The State attorney was charging -- the police wanted the State attorney to charge felony
3 counts that would've resulted in imprisonment. The State attorney looked at the facts, didn't think
4 that the facts justified the counts the police wanted; offered initially, I believe, an offer that would've
5 resulted in probation. I believe Mr. Epstein rejected that offer.

6 The State attorney then decided to take it to a grand jury to let the people of Palm Beach, in
7 essence, decide and presented all the charges, from the highest to the lowest, to the grand jury.
8 The grand jury returned a charge that would've required the State equivalent of pre-trial diversion,
9 not even probation, I believe. And so the police then came to us.

10 Somewhere around that point, my understanding is that the first assistant -- then-Criminal
11 chief and I were briefed. I don't recall. I don't know. I suspect it was a very brief heads-up.

12 Q Generally, how would you -- putting aside the Epstein case, but generally, how would
13 you monitor high-profile cases?

14 A I had an excellent management staff. My first assistant had been the Criminal chief
15 before that, had been an executive in the Fort Lauderdale office before that. I had a Criminal chief
16 that had been the head of Major Crimes. And in the Palm Beach case, we had a managing attorney,
17 a managing AUSA, that before that had been the acting head of Public Integrity at one point and had
18 been an AUSA for any number of years.

19 And so, typically, I would sit down with my management staff and we'd talk about the
20 high-profile cases that were pending, we'd talk about what I needed to focus on, and they would
21 bring the issues to me that they thought were pertinent.

22 Q Do you recall who the team was handling the Epstein case at the time?

23 A So, when it first came into the office -- again, I don't recall when it first came into the
24 office. The prosecuting attorney, according to OPR, briefed the then-Criminal chief/subsequent first
25 assistant and myself. And then there's not a lot of communication for several months.

1 Her chain of command would've been a deputy chief in Palm Beach that, based on the OPR
2 report, wasn't heavily involved. I don't know why.

3 The managing attorney in Palm Beach County, then the Criminal chief and then the first
4 assistant.

5 Q All right.

6 Did your office have a sex crime division?

7 A We did not have a sex crime division per se, no.

8 Q "Per se"? What does --

9 A We had some individuals that specialized or chose to do those types of cases.

10 Q Do you recall anyone recommending to you more involvement in the Epstein matter?

11 A It was 20 years ago. I do not.

12 Q Okay. Do you recall any direct interaction between yourself and Main Justice in D.C.
13 regarding the Epstein matter?

14 A I can either answer that or you can rephrase it by time periods, because it varied heavily
15 over time.

16 Q In -- we'll start in --

17 A Would you like me to try?

18 Q Well, I'll go, like, year by year, because I imagine it -- but our understanding is that the
19 case originally came to the U.S. Attorney's Office in 2006. Do you recall any conversations with
20 Main Justice at the onset of the FBI and U.S. attorney case?

21 A I do not.

22 Q And then the non-prosecution agreement was being negotiated and signed in mid- to
23 late 2007. Do you recall any conversations with D.C. around then?

24 A Yes, there would have been some. And I can try to break that down if you'd like.

25 Q Yeah.

1 A So, to my knowledge or at least to my recollection, the first communications with D.C.
2 took place after -- so -- and I'm sure we'll talk about this. I'll put it to one side for now.

3 But after we had told defense counsel that we were proceeding with a requirement of 2 years
4 imprisonment, registration, and a right for victims to recover monetary damages, also known as
5 restitution, we made a decision and I approved that decision that we -- you know, the State attorney
6 had let him off entirely. That was just wrong. And we wanted imprisonment, registration, and
7 restitution.

8 At that point, perhaps a week or some number of days later, counsel came in. Mr. Epstein
9 hired -- let's just call him "Epstein." Epstein hired additional counsel. I thought at that point that
10 the case would be appealed to Washington.

11 I communicated with my first assistant that they wanted a meeting, we should give them the
12 meeting, because I didn't want the case to just jump to Washington because I refused to hear them
13 out. And so we granted the meeting.

14 At that time, at my request, the head of the Criminal Division's Child Exploitation and
15 Obscenity Section, called "CEOS," Drew Oster- -- Oosterbaan?

16 Q That sounds right.

17 A I asked my first assistant to invite him down so that he became aware of the case, so
18 that he became aware of how we were approaching the case, and so that he would be present when
19 we heard defense pushback. Because I just had a suspicion that it would end up in Washington, and
20 I thought it better to give them process in south Florida so that they can't say that we didn't give
21 them a hearing and didn't give them their due.

22 He, in fact, did come down. We had that meeting. He was present for the meeting.

23 I heard out defense counsel. I rejected -- they wanted us to drop the case. Their theory
24 was that it was a local case, that it was not a Federal case, because at the time we didn't have
25 evidence that he traveled with any victims, we didn't have evidence that -- and maybe we'll talk

1 about this, but -- we didn't have evidence that there were other individuals involved, we didn't have
2 evidence that he traveled interstate or internationally with any victims.

3 And so they wanted us to drop it. I said no. They wanted us to do something similar to the
4 State. I said, no, we're going to stick to our guns, we're going to stick to our initial offer and go and
5 negotiate.

6 Q You said that Epstein hired more counsel. Was that when he brought in Dershowitz,
7 Lefkowitz, and Starr?

8 A I don't know when he brought in Dershowitz, but that's when he brought in Lefkowitz
9 and Starr.

10 Q All right. And was that the concern, that they were -- I mean, both of them had
11 worked in White Houses before. Was that the concern, that they would elevate straight to D.C.
12 because of who they are?

13 A Yes. I mean, they -- I mean, Dershowitz, you know, we can put to one side, but, you
14 know, Lefkowitz was a Washington lawyer, Starr was a Washington lawyer.

15 And, you know, I recall very clearly going to my first assistant and saying, "Epstein just hired
16 these folks. It's going to go to Washington. So let's give them -- they want a meeting. Let's give
17 them the process down here to try to head it off going to Washington."

18 Q And, then, just -- who was your first assistant in your office?

19 A So, at that time, that was Mr. Sloman.

20 Q Okay.

21 A He was previously Criminal chief. At some point in this process, that shifted. I
22 believe at that time he was first assistant. But when we were first notified, I believe he was
23 Criminal chief.

24 Q All right.

25 And, then, what's, kind of -- you said the phrase "appeal to Washington." What's, kind of,

1 the process for -- you made an offer to Epstein's counsel. How would they appeal to Washington?

2 A So, at the time, one of the major questions in the case was, is this a Federal case or is it
3 a local case?

4 Again -- and, you know, we'll, I'm sure, talk about the evidence at some point, but -- our
5 evidence was that there were no other individuals involved, that there was no travel involved, that
6 the victims went to his home. What happened -- and unless we really need to, let's not get into the
7 details -- what happened happened in his home, and they left. And some of the victims didn't come
8 back. Other victims came back on other days, and the same thing happened. And other victims
9 suggested to their friends that they come back, and those things happened.

10 But it was all within Palm Beach County. It was all local. And one of the issues was, where
11 is the Federal connection? Where is the interstate travel?

12 I have a vague recollection, but the OPR report talks about it with sufficient detail that I think
13 my recollection is refreshed -- I'm not using that as a technical term, so don't take that --

14 Q Yeah.

15 A -- what it means technically -- that one of the theories was whether or not we can say
16 that he traveled for the purpose of engaging in these acts with these victims. And, at the time, the
17 question of law was whether travel needs -- whether purpose simply needs to be a purpose or the
18 dominant purpose or a predominant purpose or something along those lines.

19 And so those were the kinds of policy questions that I would typically talk about and, also, the
20 kinds of policy questions that I could see being appealed through the entire, you know -- and I think
21 it's difficult today to put ourselves back in 2006, because federalism was viewed very differently in
22 2006 than it is today. Congress was having major debates about federalization of crime; Congress
23 was having major debates about whether Department of Justice is impinging on local authority.
24 And, as a result, those are the sorts of debates -- was this a local crime or a Federal crime -- that I
25 could see being appealed to Washington.

1 Q And that would be, as much as you know or remember, the vague hypothetical of
2 defense counsel would call someone, and in this case in the Criminal Division, and be like, "I need a
3 ruling on whether or not the Southern District for Florida is interpreting the law correctly,"
4 something along those lines?

5 A Yes. Or -- or -- I mean, ultimately, the U.S. attorney works for the Department of
6 Justice, and Department of Justice in entirety, you know, authorized and in their right mind to
7 overrule a U.S. attorney or say that this isn't appropriate, and that's their prerogative.

8 Q Thank you.

9 I want to -- I'm going to go ahead and introduce it as exhibit 1.

10 [Acosta Majority Exhibit No. 1

11 was marked for identification.]

12 BY MR. [REDACTED]:

13 Q It's being passed around. It's marked as exhibit 68 because it's pulled from civil
14 litigation, but it's exhibit 1 for our purposes.

15 A Okay.

16 Q It's a letter that you wrote just to "whom it may concern" in 2011.

17 A Yes.

18 Q Do you recall writing this letter?

19 A I do.

20 Q What was the purpose of this letter?

21 A So, at the time, I believe there was some media concerning this and some criticism of
22 the office, and I thought it important to -- I didn't want to engage with multiple reporters. I
23 just -- that's not my style. And so I thought the best approach was to just write an open letter
24 defending the office and what it did.

25 Q And how did you publish it or disseminate it?

1 A I provided it to one of the reporters that was engaged in the story.

2 Q Do you recall who?

3 A I believe it was one of the reporters at The Daily Beast, I believe.

4 Q We're going to go through a little bit of this because I actually think it kind of lays the
5 foundation nicely for going into more detail later.

6 A Uh-huh.

7 Q But I want to go ahead and flip to page -- I don't know who did the Bates marks,
8 but -- 1796. It's the second page.

9 A Yes.

10 Q In the second-to-the-last paragraph, about midway through, there's a sentence that
11 begins, "Our judgment."

12 A "Our judgment," yes.

13 Q Yeah. I'll read it.

14 "Our judgment in this case, based on the evidence known at the time, was that it was better
15 to have a billionaire serve time in jail, register as a sex offender and pay his victims restitution than
16 risk a trial with a reduced likelihood of success. I supported that judgment then, and based on the
17 state of the law as it then stood and the evidence known at that time, I would support that judgment
18 again."

19 Do you -- we're now another 14 years ahead of this. Do you still support that judgment?

20 A So I think something that has -- there are a few parts to this, and we can break it down.

21 One question is, go to trial Federal versus State, and we'll talk about that, because I do think
22 there were some issues on the State resolution that we did not foresee that became an issue.

23 I think, today, there's also -- the public wants trials more than it did back then, in some ways.

24 There's a greater desire for, "Just go for it." And as U.S. attorney, I think you've got to be in touch
25 with public desire.

1 All that said, myself, the prosecuting attorney, the managing attorney of the Palm Beach
2 office, the Criminal chief, and the first assistant all favored a pre-trial resolution. It was
3 across-the-board.

4 If I may --

5 Q Uh-huh.

6 A -- I've got a statement. This is the prosecuting attorney who was likely the most
7 pro-prosecution. The higher up you went in the management chain, as a general rule, the more
8 concern there was about the evidence.

9 Q Was that Ms. Villafana?

10 A Yes, it was.

11 Q Okay.

12 A But this is her giving a sworn declaration in this -- I think it was the civil case. I can't be
13 certain.

14 "Some have alleged that Epstein would easily have been convicted and that all victims were
15 eager to participate in a full-fledged Federal prosecution. As the prosecutor who handled the
16 investigation, I can say that these contentions overlook the facts that existed at the time. We
17 would meet with victims, we would ask them how they wanted the case to be resolved, and most of
18 them wanted it to be resolved via a plea. Some of them wanted him not to be prosecuted at all.
19 Most of them did not want to have to come to court to testify."

20 And she goes on to say how she favored a negotiated resolution and it was her understanding
21 that the office did as well.

22 And so we had, a little bit later in the case, an attorney from CEOS, the Child Exploitation and
23 Obscenity Section, from Washington come down and look at the case. And this attorney went
24 through the entire file. She specialized in these types of cases, and she went through the entire file.
25 And she looked at it and said that there were serious evidentiary issues and, while the evidentiary

1 issues were not insurmountable -- and these are her words -- going to trial would be a,
2 quote/unquote, "crapshoot."

3 And so our thinking at the time was, you know, the State attorney is letting him get away with
4 this. The State attorney is asking pre-trial diversion. Unacceptable. Entirely unacceptable. But
5 a billionaire going to jail sends a strong signal to the community that this is not acceptable, that this is
6 not right, that this cannot happen.

7 His registering as a sex offender puts the world on notice -- whether the world listened or not
8 we can put to one side, but it puts the world on notice that he was an offender and a sexual
9 offender.

10 And, on top of that, we included a means for the victims to recover monetary damages, not
11 because we thought that it makes them whole, but because we wanted a mechanism for them to at
12 least try to restart their lives.

13 And, at the end of the day, it was our judgment that -- and my judgment that the signal this
14 would send to the community was an important signal. On the other hand, if we go to trial and we
15 roll the dice and we do the crapshoot and we lose, what kind of signal does that send? That says
16 that he got away with it, that you can do that more. And so we thought it was very, very important
17 to send that signal, and that's why -- that's one reason we favored the negotiated plea.

18 I think less so in my mind but perhaps more so in the minds of others was concerns about the
19 victims. If you look at the similar declaration from the case agent, the case agent on this case, in a
20 similar declaration -- and I'll tell you what she wrote.

21 This is the case agent, also sworn testimony -- or sworn statement.

22 "Many of the victims were troubled about the existence of the investigation. Some victims
23 who were identified through the investigation refused even to speak to us. During the interviews
24 conducted from 2006 to 2008, no victim expressed a strong opinion that Epstein be prosecuted."

25 That's OPR 2000-1 -- I'm sorry -- 200-1.

1 And so in part it was influenced by that, and in large part it was also influenced by the viability
2 of the case. Every attorney that looked at the case, from the prosecuting attorney, again, through
3 the entire chain, looked at the evidence, and there were evidentiary issues with the victims.

4 Many victims refused to testify. Many victims had changing stories. All of us understood
5 why they had changing stories, but they did. And defense counsel would have -- cross-examination
6 would have been withering.

7 Many of them had issues in their background. They had MySpace pages; they had priors
8 that would've been used against them by defense counsel. And that was a time when, in all candor,
9 defense could be much, much tougher on victims on the stand.

10 And then, finally, I think another factor that went into it in 2006 that's very different than
11 today is -- and I think it's really -- it's almost impossible for us to understand fully how different the
12 community viewed these crimes.

13 The best way I have of explaining that: After the OPR report came out, I read what the State
14 attorney told the Office of Professional Responsibility. And I want to read that, because I think this
15 is evidence of what some of the community thought. Because this is what the State's Attorney's
16 Office thought --

17 Q And just for the record, I just want to be clear. The statements you're reading are from
18 the OPR report?

19 A From the OPR report, quoting the State attorney.

20 Q Yeah.

21 A And so the OPR report, on page 15: "Meanwhile, the State Attorney's Office took the
22 unusual step of preparing to present the case to a grand jury. Krischer," who was then the State
23 attorney, "told OPR that under state law as it existed until changed," not in 2010 or whenever -- this
24 is my interjection --

25 Q Uh-huh.

A -- but in 2016 -- "as it existed" --

Mr. Neiman. 2007.

Mr. Acosta. -- "as it existed until changed in 2016" -- right? -- 10 years after this case -- "his office prosecuted minors as young as 14 for" those actions.

"The possibility that Epstein's victims themselves could have been prosecuted caused 'great consternation within the office'" -- his words, caused "great consternation within [his] office" -- "and according to Krischer, resulted in the decision to put the case before the grand jury."

"Belohlavek," his lead attorney, "told OPR that her office took the allegations against Epstein 'seriously, because...it was an organized scheme to involve young girls by offering them money.'"

"However, she said, although Epstein's 'behavior was reprehensible...I'm limited by...the state statutes as to what I can charge. There were so many issues involving the victim-witnesses that, to my mind, in consultation with [the prosecutors]'" -- and she goes on to say that there was an element of solicitation.

And so I want to be crystal-crystal-clear, lest I be taken out of context or lest I be clipped on this: No one in our office ever thought that the victims were anything less than victims. No one thought that they were -- you know, the idea that they were involved as anything other than victims did not cross the mind of a soul.

But the fact that the State's Attorney's Office had, quote/unquote, "great consternation" because they prosecuted women in these situations at the time does reflect at least how some people in the Palm Beach community thought and does reflect to some degree at least what some jurors would think and does reflect at least to some degree some of the issues that we would have faced with victims that had quite a bit of impeachment evidence.

And, ultimately, the trial was a crapshoot, and we just wanted the guy to go to jail.

BY MR. [REDACTED]:

Q No. Thank you for all that. Appreciate all the context that doesn't come across in the

1 letter and doesn't always come across in everything else.

2 I have a couple questions on what you said.

3 So, in the 2006-to-2008 timeframe, from when Palm Beach PD handed it over to the FBI to
4 the non-prosecution agreement, your office did interview victims?

5 A Based on what I have read, the office did. I believe the office did. I did not direct the
6 investigation, so I can't personally speak to it, but I believe the office did.

7 Q And some of the evidentiary concerns would be, the victim wouldn't be able to go
8 on -- didn't want to or wouldn't be able to go on the stand to back up their statement, but also that
9 some of their statements contradicted each other or contradicted themselves. Is that a fair
10 summary?

11 A Some refused to talk whatsoever. Others said he did nothing wrong and that we were
12 just wrong. And, again, we knew that he had, but if someone tells the FBI he did nothing wrong,
13 that's the evidence you have, right?

14 Q Uh-huh.

15 A Some changed their story. Some had MySpace pages that would've been used on
16 impeachment. Some had priors.

17 And so -- you know, this isn't my opinion. This is the opinion of every, you know -- every
18 individual in the office that looked at the case.

19 This is the managing -- the Palm Beach managing attorney: "Everybody at the U.S.
20 Attorney's Office working on the matter had expressed concerns at various times about the
21 long-term viability of a federal prosecution of Epstein due to factual and legal hurdles, as well as
22 issues with the cooperation and desire of the victims."

23 And so every person that looked at the case had serious and substantial concerns about how
24 the victims would -- I believe my first assistant described it as "withering impeachment" by the
25 defense.

1 Q You've mentioned, kind of, the lack of evidence beyond victim statements. I believe
2 the Palm Beach PD -- or it might've been the FBI -- got, you know, like, message pads out of Epstein's
3 home and a couple other items of evidence, but after the Palm Beach PD executed their search
4 warrant on his house, they described it as being cleaned up.

5 Do you recall any of that?

6 A I don't.

7 Q Um --

8 A My recollection is based on the opinions given to me -- so, as U.S. attorney, my
9 background, when I was litigating, I was an appellate lawyer. And my approach was, "I am the legal
10 issues guy; I'm the policy guy." The Miami office is known as one of the best trial offices in the
11 country. We have a lot of great trial lawyers. I trust their judgment on this. And I still trust their
12 judgment on this, because they have been doing this for years. My Criminal chief at the time,
13 Mr. Menchel, had done sex crimes cases before.

14 And so, on those matters, I would look to them for their judgment, but, based on what I
15 know, I think their judgments were valid.

16 Q Were there ever any discussions about a lack of digital evidence, a lack of computer
17 hard drives or videos or photos or anything like that?

18 A I don't recall discussions with that degree of granularity. I believe the discussions
19 would have been, "We've looked at the evidence. There are a lot of issues going to trial."

20 Q I want to come back to the letter itself. And I'm going to try to work down the letter.

21 A Yes.

22 Q The third paragraph on the first page, you discuss how "local police were dissatisfied"
23 and then talk about how a case can become a Federal criminal prosecution -- an "interstate nexus"
24 and then as a "back-stop" to State authorities.

25 A Yes.

1 Q Do you recall your team ever uncovering potential witnesses in New York?

2 A I do not.

3 Q Do you recall reading it since?

4 A Yes, I have read it since. Well, let me be clear. I have not read that my team
5 discovered witnesses in New York since. I have read that there are witnesses in New York.

6 Q Okay.

7 Do you recall if your office ever got flight logs of Epstein's private jet?

8 A I can't speak to what evidence we had or didn't have.

9 Q Is that because you don't remember the evidence or --

10 A I -- I don't -- I don't remember the evidence with granularity.

11 Q At the time, was your office aware that Epstein had houses in New York, New Mexico,
12 and an island in the Virgin Islands?

13 A We are aware that he had multiple house. I don't know -- I assume they would've
14 known exactly where those were. I don't know if that was all his houses or what. But, as a
15 general matter, yes. How's that?

16 Q And then you had mentioned that one of the legal issues was, kind of -- was there, to
17 create a Federal nexus, was there a purpose of traveling across State lines or internationally to
18 commit the crime, and then what, kind of, like, amount of purpose the crime had to be. Is that --

19 A That's --

20 Q -- a good layman's explanation?

21 A That is a good layman's explanation.

22 And here's why this is important, to my mind.

23 If -- I don't recall; it was 20 years ago. But if there had been clear evidence that he traveled
24 from Florida to New York with a minor victim in order to engage in sexual activity in New York, then
25 we wouldn't have had debate after debate after debate about the degree of purpose on an entirely

1 different statute that involves traveling from one place to another by yourself in order to engage in
2 sexual activity at that second location. And so those discussions would not have happened if we
3 had evidence of clear interstate travel.

4 And so, while I don't have a clear recollection from 20 years ago, it follows that, given all
5 those discussions, we didn't have evidence of interstate travel.

6 Q So is there, then --

7 A Interstate travel for purposes of sex.

8 Q Yeah.

9 A Yes.

10 Q So this is kind of a crude question, but is there a difference -- and correct me if I'm
11 wrong; this is how I understood what you just said -- a difference in traveling with the minor to a
12 second location for the purposes of nefarious activity versus traveling alone to the second location to
13 meet someone for the purposes of nefarious activity?

14 A Absolutely.

15 Q Okay.

16 A Traveling with the minor across State lines makes it a Federal case. But traveling from
17 State one to State two in order to engage in activity with a person at State two, then that -- that's the
18 conversations that we had. And those conversations would not have happened if we had clear
19 evidence of the first.

20 Q Okay.

21 So would that -- the second instance, traveling to a second location for the purposes of
22 engaging in nefarious activity, that's the conversation of whether or not it is now a Florida, New
23 Mexico -- like, Florida case, New Mexico case, New York case, versus lumping it all together?

24 A I don't understand. I'm not with you.

25 Q So I'll be more specific. The first, kind of, known tip is from Marie and Annie Farmer in

1 1997, Maria Farmer alleging that Epstein assaulted her in New York as a minor and Annie Farmer
2 alleging that Mr. Epstein assaulted her in New Mexico as a minor.

3 So my understanding of those allegations -- and I apologize if I get it wrong -- is that they were
4 flown to those locations, not with Epstein, but met Epstein there.

5 A So I don't know those facts, and I can't discuss those facts. I can discuss the facts
6 about south Florida, and I don't know to what degree our office was aware of that information.

7 Q I'm sorry -- never mind. Okay. That's helpful to know. Because, like, when we hear
8 those tips, we sound -- it sounds to us like that's a clear interstate --

9 A Right.

10 Q -- nexus, right? Like, you've now got three States involved. I don't know if it would
11 be a prosecution in New Mexico, a prosecution in New York, and a prosecution in Florida or --

12 A Again, I can only speak to: Our understanding was that this was a south Florida
13 matter, and there were multiple attorneys debating whether we had an interstate nexus, debates
14 which would not have taken place -- and OPR talks about those debates. And OPR talks about, you
15 know, the legal issues. I think, at one point, the managing attorney -- let me see if I can find this,
16 because it seems relevant.

17 I can't find it now. But, at some point, the managing attorney for Palm Beach said that he
18 thought that the argument about whether or not travel to Florida for purposes of sex -- whether
19 we'd win or not was a closer call than our prosecuting attorney thought.

20 So there was a debate ongoing, and I don't see why we would've had that debate if we had
21 that schema.

22 And I think one of the important distinctions here is, from a 2025 perspective, this is a big
23 scheme. This is an international --

24 Q Uh-huh.

25 A -- scheme. There are other individuals involved, you know.

1 The way it's talked about in the media, the way, you know -- given what the victims say
2 now -- and those victims, let me just say, I thought they were confident, I thought they were
3 courageous. I heard their statements, and, you know -- "wow" is enough, right?

4 But, you know, back then -- again, the words of our prosecuting attorney: "None of the
5 victims that we ever spoke to" -- these are her words -- "ever talked about any other men being
6 involved in abusing them." That's OPR 167. We already talked about the travel.

7 And so, from our perspective, this was a local case, as I understood it. They went to his
8 house; they left. Some didn't come back. Some did. Some came back with others. That's it.

9 Q And so the interstate-nexus debate that you're having, just so that I'm clear, is, he would
10 travel from New York, Virgin Islands, Paris, New Mexico, wherever, to Florida for the purposes of
11 nefarious activity and whether or not that was sufficient enough to meet the Federal nexus.

12 A Correct. What --

13 Q Okay.

14 A -- our attorneys were trying to establish was whether we could say, because he knew
15 that these women were present in Palm Beach, that he would travel from New York or Paris or Virgin
16 Islands or the places that you mentioned to Palm Beach so that he could engage in what he engaged
17 in with these women, and whether or not that had to be the dominant or whether that simply had to
18 be a purpose.

19 Q Okay. Thank you. Sorry that took a while.

20 A It's --

21 Q Trying to weed out all this web of stuff is --

22 A Understood. No, it's important.

23 Q And then you had mentioned that the State's attorney was worried -- and these are my
24 words, so correct me if I'm wrong -- that it was a possibility, and that it had happened before, that
25 victims in these situations had been prosecuted for, I'm assuming, prostitution?

1 A So those are his words.

2 Q Yes.

3 A And I read that in the OPR report. No one told me that at the time.

4 Q Okay.

5 A What I understood at the time was that the State attorney had looked at the case, had
6 looked at the evidence, had evaluated how to proceed, and had decided that he didn't have evidence
7 to proceed with the charges the police wanted. And so he offered a lesser charge; that would've
8 been probation. Mr. Epstein turned that down. And then he offered -- and then he's like, "Okay.
9 We'll take it to the grand jury. We'll let the people of Palm Beach decide."

10 I have subsequently read that three victims were invited to testify to the grand jury. Two of
11 the victims did not show. Only one victim showed. The grand jury heard from that victim. The
12 grand jury made the decision to charge -- they had from the highest to the lowest, and that's what
13 the grand jury decided.

14 And something that I think is important to say: The State attorney could have made the
15 charging decision. He didn't have to go to the grand jury. But he asked the people of Palm Beach,
16 what should we do?

17 And the only reason that's relevant, to my mind -- well, two reasons. One, it's relevant
18 because he should -- I mean, he had to go to jail. And early on in the case, when it was first -- when
19 Mr. Sloman and I were first briefed, the record shows and OPR discussed how the line attorney was
20 preparing a Petite waiver.

21 And a Petite waiver, just to explain it briefly -- typically, someone isn't prosecuted twice for a
22 crime. But when a State's prosecution is manifestly inadequate, then the Federal authorities can
23 ask for a Petite waiver, which means they can prosecute again.

24 And when it was first brought to the office, it was brought in the context of a possible Petite
25 waiver, because there was an agreement for pre-trial diversion, no jail time, no registration. And so

1 it always came in the context of a Petite.

2 And so, to go back, the U.S. attorney -- I'm sorry -- the State attorney took it to the grand jury,
3 the grand jury made that decision, and that was just not okay.

4 Q But, at the time, like, my, kind of, understanding of one of the -- one of the concerns
5 that the State's attorney said after the fact was that it was possible that there would be criminal
6 liability for the victims for what occurred. Is that fair?

7 A Yes. Um -- look, I --

8 Q Not that a case would actually be brought, but --

9 A -- I am hesitating here because that's not what this was. But that's what the State
10 attorney is saying. And maybe that's why the State attorney was an unreliable partner, as we can
11 talk about later on. But that is a reflection of at least an opinion of some people in Palm Beach
12 County at the time and something that -- it is what it is.

13 Q I just wanted to make sure that I was understanding that that was not brought to you at
14 the time, it was something that you read --

15 A Yes.

16 Q -- after the fact, and that my understanding of what his statements were is accurate,
17 that there was a --

18 A Yes.

19 Q -- possible criminal liability. Thank you.

20 A And, again, I want to be crystal-clear, lest I be taken out of context. None of us
21 thought that that was the case --

22 Q Yeah.

23 Mr. Neiman. At the U.S. Attorney's Office.

24 Mr. Acosta. -- at the U.S. Attorney's Office. And that's why we thought it was important
25 that he go to jail.

1 BY MR. [REDACTED]:

2 Q Yes.

3 A And all of us thought that the victims were victims.

4 Q No, I appreciate that. And we all agree too. That's why I was --

5 A Yes.

6 Q -- surprised. Thank you.

7 Going back to the letter, the last paragraph on the first page begins, "What followed was a
8 year-long assault on the prosecution and the prosecutors. I use the word 'assault' intentionally, as
9 the defense in this case was more aggressive than any which I, or the prosecutors in my office, had
10 previously encountered." And then you talk about the army of lawyers that Mr. Epstein hired.

11 And, later on -- I'm trying to find the right page. On what is the second-to-the-last page but
12 the -- or, the last page, the first full paragraph --

13 A Yes.

14 Q -- that "some may also believe the prosecution should have been tougher in retaliation
15 for the defense's tactics," you write it here, but can you explain some of Epstein's defense tactics in
16 this case?

17 A So they would agree and then say they didn't agree, and we'd have to -- the prosecuting
18 attorney would start negotiations again. They would sometimes say that we agreed to something
19 that we did not agree to, and we'd spend time on that.

20 They at one point tried to recuse the prosecuting attorney -- this was a little bit later, but they
21 tried to recuse a prosecuting attorney. At one point, they tried to recuse my first assistant. They
22 found what I refer to as a "peccadillo" and tried to recuse the first assistant.

23 And then, I think perhaps the most egregious of all, he signed an agreement, and he signed
24 that agreement I believe in September. And, in my experience, once counsel and defendant sign
25 the agreement, it's done and you follow through. And then they started relitigating everything

1 again.

2 And then they started saying, "You can't do this because of federalism concerns and because
3 you're impinging on a local matter."

4 And they charged our office with being unethical -- or, I don't want to say "unethical." They
5 charged our office with improperly interpreting the law. And this is when I became more involved,
6 because it was more of a policy issue and it was more of an attack on the office.

7 And then they appealed us to the Criminal Division in Washington. And then, after that,
8 they ultimately appealed us to the Deputy Attorney General's Office.

9 And so, from the time that he signed the agreement to the ultimate plea was a span of about
10 8 months, something --

11 Q Uh-huh.

12 A -- that is unheard of.

13 I'll provide another example. We'd had assurance from the State attorney and we had
14 assurance from his counsel that he would be in continuous confinement. And then, after he goes to
15 jail, he applies for work release, and Palm Beach gives him work release. And we're not even
16 notified that he gets work release. And our office objects to it, but -- but we had assurances that
17 that would not happen. And OPR talks about those assurances as well.

18 Q Uh-huh.

19 A So, at multiple levels, you know, they -- their tactic is something that you can only do
20 once, because no -- you know, if you're a south Florida lawyer that had to interact with the office
21 multiple times, that could not happen.

1 [10:59 p.m.]

2 BY MR. [REDACTED]:

3 Q The paragraph also mentions like -- I am going to characterize it as stalking assistant U.S.
4 attorneys, investigating assistant U.S. attorneys, investigating their families.

5 A It does.

6 Q Did you experience that as -- like, did you personally experience that?

7 A I did not. My first assistant did.

8 Q And that's a fair characterization from me that -- I mean, I'm -- you can correct me if I'm
9 wrong, but hiring private investigators to follow them, go through their trash, kind of like that kind of
10 stuff, or was this --

11 A So let me see how to characterize this, and then if you want details, you can ask me for
12 details. They uncovered something involving -- involving his daughter. So I don't want to say that
13 they hired private investigators to stalk him. I think that'd be a mischaracterization. But, yes, they
14 uncovered something regarding his daughter to try to recuse him.

15 Q And then --

16 A Actually -- that sounds -- I want to answer that more fully lest there be -- look back on
17 her. There was an incident that involved someone peeping at his daughter at the time, and he
18 called police and he followed up, as I think any father would and should. And they said that
19 because of that he could not be fair and impartial and tried to recuse him.

20 Q Thank you.

21 You say, and I think it's a --

22 A Which, let me just add, is just outrageous.

23 Q Yes. The accusation being that because someone stalked his daughter he would be
24 impartial to someone that committed similar crimes, I guess, is what they were going for?

25 A That was the argument, yes.

1 Q Just a couple minutes late, a lot of people have come in, so I'm going to go through and
2 announce them at the end of the hour.

3 But you say, and I think it's a bedrock American principle, that everyone is entitled to an
4 aggressive defense. Is there a line, and was it crossed?

5 A So, unfortunately, or fortunately, maybe -- I don't know. Let me restart. Everyone's
6 entitled to an aggressive defense. I don't think the line was crossed. I don't think that -- it is not
7 the way I would want to litigate. It is not the way I would teach lawyers to litigate. But it is
8 allowed within the legal profession, and so I don't think there was misconduct, and misconduct is the
9 line. But it was distasteful. It did frustrate our attorneys.

10 And one of my challenges as a manager was, at various times, all of us, including myself,
11 would be like, yeah, we're sick of this. But if something is right initially, you can't sort of let defense
12 counsel get under your skin. If it's right initially, then it's right then, and you just keep going.

13 Q Based off that, were there any discussions about filing sanctions against any defense
14 counsel?

15 A Not that I recall.

16 Mr. [REDACTED]. That is a good stopping point for our hour. But before we go off the record, a
17 number of members have come in, so I will have -- we'll start back here, if you wouldn't mind
18 introducing yourself for the record, please.

19 Mr. Subramanyam. Yeah. Congressman Suhas Subramanyam, Virginia 10.

20 Ms. Lee. Summer Lee, Pennsylvania 12.

21 Mr. [REDACTED]. And Mr. Biggs?

22 Mr. Biggs. Andy Biggs, Arizona 5.

23 Mr. [REDACTED]. And the Ranking Member?

24 Mr. Garcia. Ranking Member Garcia from California.

25 Mr. Acosta. How are you?

1 Mr. [REDACTED]. And then [REDACTED].

2 Ms. [REDACTED]. [REDACTED].

3 Mr. [REDACTED]. And I think we're good. We can go off --

4 Mr. Acosta. Can I just finish the answer to the prior question before we stop?

5 Mr. [REDACTED]. Yes.

6 Mr. Acosta. I don't recall any conversations about sanctions. And if I'm being fair, I do
7 think defense counsel have a right to challenge whether or not someone should be recused. And
8 distasteful as it is to look up someone's -- to look up some of the matters that we just talked about,
9 defense counsel has a right to do that, and I don't think that should be sanctioned.

10 Mr. [REDACTED]. All right. I appreciate it.

11 Mr. Min, could you announce yourself?

12 Mr. Min. Sure. Congressman Dave Min, California 47.

13 Mr. Walkinshaw. Congressman James Walkinshaw, Virginia 11.

14 Mr. [REDACTED]. Thank you very much.

15 We can go off the record for this hour.

16 [Recess.]

17 Mr. [REDACTED]. All right. We'll go on the record. The time is 11:16.

18 Before we begin, if the members could please introduce themselves, starting with the
19 minority here at the table.

20 Mr. Garcia. Robert Garcia, the Ranking Member.

21 Ms. Crockett. Jasmine Crockett, Texas 30.

22 Mr. Casar. Greg Casar, Texas 35.

23 Mr. Min. Dave Min, California 47.

24 Mr. Frost. Maxwell Frost, Orlando, Florida.

25 Mr. Subramanyam. Suhas Subramanyam, Virginia 10.

1 Mr. Walkinshaw. James Walkinshaw, Virginia 11.

2 Ms. Lee. Summer Lee, Pennsylvania 12.

3 Mr. [REDACTED]. Mr. Biggs?

4 Mr. Biggs. Andy Biggs, Arizona 5.

5 Mr. [REDACTED]. And, Mr. Burchett?

6 Mr. Burchett. Burchett. Birch like the tree, and ett like I just ett breakfast. Burchett.

7 Mr. [REDACTED]. Thank you.

8 Mr. Burchett. Tennessee 02. I'm here in support of Ms. Crockett.

9 Ms. Crockett. I appreciate that.

10 EXAMINATION

11 BY [REDACTED]:

12 Q Mr. Acosta, good morning.

13 A Good morning.

14 Q We're going to delve into greater depth into some of the issues that my majority
15 colleagues raised with you during the previous round, but at the outset I'd like to just establish some
16 facts that I think lie at the core of today's proceeding.

17 And to begin with, it's my understanding that the line prosecutor in your office who handled
18 the Epstein investigation, Ms. Villafana, concluded that there was enough evidence in her view to
19 support a 60-count Federal indictment against Mr. Epstein. Is that accurate?

20 A The prosecuting attorney, Ms. Villafana, sent a draft indictment up her supervisory chain
21 that was never fully reviewed by the supervisory chain. That was a first draft that was written by
22 her. And in the usual course of the office, it would then go to the managing attorney in Palm Beach
23 County and the criminal chief.

24 And earlier we had talked about, for example, the interstate statues. And the managing
25 attorney in the Palm Beach office that supervised her expressed concerns about, for example,

1 whether or not the Federal nexus existed. So she did draft that. That wasn't -- that had not gone
2 through the supervisory chain.

3 Q That I understand, but would you agree with me that it reflected her view of the
4 evidence and the charges that the evidence supported at the time?

5 A It reflected her view of what the case could have looked like if it went to trial. But,
6 again, in her sworn deposition, she said that a negotiated plea would have been a better outcome,
7 and that did reflect her assessment as to the viability of a case. And so just because you draft an
8 indictment doesn't mean you think it's a slam dunk.

9 And she went on to say -- and if I could, because it's an important point -- this is her talking,
10 not me, and this is her sworn statement. "Some have alleged that Epstein would easily have been
11 convicted, and that all the victims were eager to participate in a full-fledged Federal prosecution.
12 As a prosecutor who handled the investigation, I can say that these contentions overlook the facts at
13 the time." So her sworn statement is that it would not have been an easy case and that there were
14 issues.

15 Q Sure. And you're talking about litigation risk, which, of course, is inherent in every
16 prosecution. But her draft indictment was accompanied by an 80-some-odd-page charging memo.
17 Isn't that correct?

18 A I can't speak to the pages, but it was accompanied by a charging memo that, again, the
19 supervisory chain in the office had a different assessment than she did.

20 Q But it's fair to say that she wouldn't have sent up that draft indictment and the 80-page
21 charging memo if she didn't have faith in the allegations that she was outlining and the merits of the
22 prosecution. Isn't that a fair characterization?

23 A So you wouldn't send up something that you didn't believe was factual and accurate.
24 Again, I don't think it is fair to characterize her position as saying this is what we need to do, because
25 in her sworn statement she herself said that she favored a negotiated outcome.

1 Q And wasn't it also her judgment that the appropriate sentence for Mr. Epstein under
2 Federal sentencing guidelines was, at a minimum, 168 to 210 months?

3 A It was her judgment that if we had gone to trial on the charges in the memo, again,
4 charges that the supervisory chain in the office had concerns over, that if we had gone to trial, that
5 would have been the guideline range.

6 Q And it's my understanding, having read the OPR report, that Ms. Villafana repeatedly
7 pressed her supervisors to authorize an indictment of Mr. Epstein, and that authorization was
8 repeatedly denied. Isn't that accurate?

9 A I think it would be fair to say that she pressed them. I don't know how you define
10 "repeatedly", but she did press them.

11 Q Despite Ms. Villafana's views, you ultimately decided that a resolution of the case on
12 State charges was appropriate. Is that correct?

13 A So there was discussion within the office, and I think -- I think an important in between
14 is that, if we were to go forward on Federal, there was -- the discussion ended up landing on what's
15 called a 371, which is a different charge, which would be a 5-year charge with a what's called a Rule
16 11 cap. But, ultimately, there was discussion within the office, I talked with my supervisory staff,
17 and I approved a three-prong term sheet, or approach.

18 The first required that he serve 24 months imprisonment. And my understanding at the
19 time, as I recall it, was that that is what the Palm Beach Police initially sought, right. And, again, the
20 Palm Beach Police went to the State Attorney's Office, the State Attorney's Office was willing
21 to -- were unwilling to file the charges the Palm Beach Police sought. They offered him probation.
22 Then they took it to the grand jury, offered pre-trial diversion.

23 What I ultimately approved, and I approved it, was 2 years, which is what the Palm Beach
24 Police sought, registration as a sexual offender, and then we also added in a mechanism for
25 monetary recovery for the victims.

1 Q And looking at the terms of the non-prosecution agreement, which I'll refer to, for
2 brevity sake, as the NPA, if that's okay with you.

3 A Yes.

4 Q So the NPA permitted Mr. Epstein to plead to a single charge. Is that right?

5 A Yes, that is correct.

6 Q Okay. As opposed to the 53 Federal counts that Ms. Villafana had initially proposed in
7 her charging memo?

8 A Again, I take issue with your characterization of the charging memo, but, yes.

9 Q And the NPA also allowed Mr. Epstein to -- I'm sorry. Pursuant to the NPA, your office
10 agreed to a sentence for Mr. Epstein of only 18 months in the Palm Beach County jail. Is that
11 accurate?

12 A That is ultimately accurate. After I approved the, we'll call it a term sheet for simplicity
13 because that's how it was labeled, the prosecuting team entered into a negotiation. In the process
14 of that negotiation, it went from 24 to 18. My perspective on that was, the prosecuting attorney,
15 Ms. Villafana, wanted him to go to jail, perhaps more than any of us, and I think the record makes
16 that clear, and so if in the process of that give-and-take it ends up at 18, it's appropriate to defer to
17 that process.

18 Q So just to clarify, the initial proposal from your office as to the NPA was a 2-year
19 sentence, that was further reduced to 18 months, and of that 18 months, Mr. Epstein only served 13.
20 Is that correct?

21 A That is factually correct, but I want to clarify my prior answer, if I could. When I said
22 she more than anyone else wanted him to go to jail, I don't think that is accurate. And I said
23 that -- all of us, every single person, the whole reason we took this case is because we wanted him to
24 go to jail. Because the State attorney said pre-trial diversion; like, how could the State attorney say
25 that.

1 But on the continuum of how the case was assessed and the viability of the case, as you went
2 up the experienced chain, there was more concerns about viability, and so I trusted her to negotiate
3 that agreement. And I think she did a really, really good job under very difficult circumstances given
4 the way the defense treated her and approached the case.

5 Q The 18-month sentence was ultimately approved by you, correct?

6 A Yes. Let me be clear on something else. I'm not pushing away. Ultimately, it
7 was -- you know, I was the U.S. attorney, the decisions are mine. I told that to the Office of
8 Professional Responsibility. I'm not pushing away. The decisions were mine.

9 Q Understood. And pursuant to the NPA, Mr. Epstein was permitted work release while
10 serving his sentence. Is that correct?

11 A So I would not say that was pursuant to the NPA. And we had assurances on multiple
12 levels that it would be, quote/unquote, continuous confinement.

13 One of the issues that you may -- you may want to talk about, or not, is I think the State
14 turned out to be an unreliable partner. And OPR did a 300-page report, and there are some
15 conclusions that, quite honestly, are critical of me that I will agree with. And one of those was I
16 relied on the -- you know, by approving a State resolution, I partnered with the State attorney and a
17 Palm Beach sheriff that was an unreliable partner. We had an assurance that he would be in
18 continuous confinement, we were told multiple times that he would be.

19 He obtained work release from the Palm Beach sheriff under a factual situation that's sketchy
20 at best. I don't remember all the details, but I think his work release was at an institution that had
21 just been incorporated, or something along those lines. That was the Palm Beach sheriff's decision.
22 When we found out about it we objected. We objected in writing. We objected fully. And so
23 that was under the authority of the State.

24 Mr. [REDACTED]. Mr. Min, do you have a question?

25 Mr. Min. Yeah. I just want to follow up on this line of questioning. Did you feel like the

1 investigation was complete at the time you decided to proffer the 24-month sent- -- the proposal?

2 Mr. Acosta. So I would have -- I would have deferred to the trial team at the time. At the
3 time --

4 Mr. Min. So following up on that -- go ahead.

5 Mr. Acosta. No, no. But I think the timeline's important. The case was brought into the
6 office in late spring of 2006.

7 Mr. Min. Sure.

8 Mr. Acosta. About a year later, we -- I approved that term sheet. There had been a year.
9 During that year, victims had been interviewed, the prosecuting team had done whatever they
10 thought needed to be done. And I don't recall any discussion of there's more than we need. If
11 anything, I recall, you know, let's put -- let's proceed now because it's important the -- you know, one
12 of the concerns is that the victims, as they get older, might be less -- might --

13 Mr. Min. So I just want to turn, because Marie Villafana repeatedly has said that she at the
14 time, and after the fact, believed that the computer evidence, the files, the surveillance videos, all of
15 that, were -- I think she said, would have put this case completely to bed. And the defense
16 attorneys, and I think he'll go into that, repeatedly pushed that particular request off. They did not
17 respond to it. I know that there's a long record of her going to her superiors, including to you, and
18 asking for permission to be more persistent in trying to get these records. And then at some point,
19 Ken Starr and Lefkowitz became the attorneys of record. And then at that point, imme- -- about 2
20 weeks later I think is when you entered into the NPA.

21 And so I'm interested in that timeline. But I guess my question right now is, if there's a big
22 pile of evidence here that, you know, I think a number of people have noted would probably have
23 surveillance videos that would have corroborated the witnesses' testimony and their claims that they
24 were visiting Epstein's house, you might have had child pornography, you might have had videos, a
25 known video in his New York residence, and I think a number of people had noted that it was

1 shocking that he wouldn't have had a similar surveillance system in Palm Beach, why would you not
2 get that information before, which might have had everything you needed to get rid of the litigation
3 risk in this case?

4 Mr. Acosta. So there were a number of -- there were a number of statements in that, some
5 of which I think confuse the timeline and some of which I think are inaccurate, but -- and so I can take
6 those one at a time.

7 So, first, the -- I approved the terms of the -- I approved the term sheet before Mr. Starr was
8 brought into the matter. When Mr. Starr was brought into the matter was, I believe, a week or 2
9 after that term sheet was approved. And at that point, we did have a meeting with defense,
10 everyone was present at the meeting with the defense, and at that meeting I rejected everything
11 that was asked. They asked that we not proceed because it's a local case. They asked that we
12 drop the 2-year demand. I rejected all of those. I said you've been heard.

13 And the reason we had that meeting is because it was my assessment, and it ended up being
14 true for better or worse, that the case would be appealed to Washington, and I didn't want it to be
15 appealed on the grounds that we had not heard defense arguments. I thought it's better that we
16 hear them in Miami first.

17 And I invited the head of the child exploitation section from Washington down to the meeting
18 in south Florida so that Washington was fully aware of what we were doing so that Washington
19 understood the case and understood the matter. And so I just want to clarify that timeline first.

20 Mr. Garcia. Let me move on really quick, Mr. Acosta, before I go back to the attorneys. On
21 the 18-month final sentencing, do you stand by that? Do you stand by the decision that you made
22 and the office made?

23 Mr. Acosta. On the 18 months?

24 Mr. Garcia. Yes.

25 Mr. Acosta. So here's -- so let me say this, we put him in jail.

1 Mr. Garcia. Do you stand by the 18 months?

2 Mr. Acosta. No. I understand, but allow me to give you a fulsome answer, if I could. We
3 put him in jail, he registered as a sex offender, and the victims had an opportunity to recover. And
4 that was a win.

5 Looking back in hindsight, there are a number of issues that I will, you know, that I will say
6 caused the community and the victims to feel -- to feel that this was not a good resolution, and I get
7 that. But from the perspective of our prosecutors at the time, based on the evidence we had at the
8 time, you know, everyone in our office wanted to put him in jail, and that's what we did. And it
9 wasn't just me. These are experienced career prosecutors. Our first assistant had been with the
10 office for years, he had been the criminal chief before.

11 Mr. Garcia. So you would disagree that calling it a sweetheart deal, you would disagree with
12 that assessment?

13 Mr. Acosta. I disagree with that. And I think it's really easy, with respect --

14 Mr. Garcia. And you're also aware, sir, that he, of course, went on to abuse other women?

15 Mr. Acosta. So what I was saying is I think it's really easy in this era to sort of label
16 something with an easy sound bite. We talked about, and I can talk again, about our -- and I need
17 to go back to your question.

18 Mr. Min. I was going to ask you, you answered the question --

19 Mr. Acosta. Yeah. I need to go back to your question. I'm sorry, but I was interrupted in
20 my -- I'm trying. But we talked about the assessment of the first assistant was that this would be a
21 very difficult case. The assessment of the Child Exploitation and Obscenity prosecutor that came
22 down from Washington, D.C., that looked at all the evidence, looked at all the evidence and said,
23 quote/unquote, this case would be a crap shoot. That wasn't my -- those weren't my words; those
24 were her words. The assessment of the Criminal chief, who used to be the head of Major Crimes,
25 was that this would be a difficult case. The assessment of the managing attorney of the Palm Beach

1 office. And more than a difficult case, a highly difficult case where we weren't sure what the
2 outcome would be.

3 And so looking at all of this, the ultimate judgment was, do you roll the dice, and if he gets
4 away with it you're sending a signal to the community that he can get away with it, and given the
5 State attorney's, you know, approach where the State attorney was, in essence, letting him get away
6 with it, what would that say, or do you proceed with a sure prosecution where he goes to jail. And
7 none of us, none of us thought that 18 months or 24 months was the right outcome in terms of this is
8 what we wanted, but based on the facts that we had, based on the --

9 Mr. Garcia. And I understand that.

10 Mr. Acosta. Right.

11 Mr. Garcia. And, sir, you would -- so you don't agree that it was a sweetheart deal. That's
12 clear. And you do recognize that he went on to abuse other women. You recognize that?

13 Mr. Acosta. If there's evidence that he went on to abuse other women, that evidence
14 should be brought forward and --

15 Mr. Garcia. You're not aware -- you can't say with certainty that he abused other women
16 after he was -- in his -- during his sentence?

17 Mr. Acosta. I have not reviewed facts after the prosecution.

18 Mr. Garcia. I mean, it's been widely reported, so that's surprising.

19 Mr. Acosta. So, you know, my understanding of our criminal justice system is what is
20 reported and what is proven in court are two different things. And so I am -- you know, I read
21 reports. I understand reports. Let me say, I saw -- I saw the press conference given by the victims.
22 I thought their statements were courageous. They were confident, they were eloquent. We
23 believed the victims back then. Despite the reality that defense would have impeached these
24 victims and the impeachment would have been withering, we believed them fully, but -- but I don't
25 take a press report --

1 Ms. Crockett. Can I stop you right there? Real quick. I'm sorry. Because you actually
2 answered a question that I was going to ask. What made you feel like this case was so weak? And
3 it sounds like you were convinced that the case was so weak because you felt like the victims,
4 multiple victims, were going to be impeached, even though you believed them. What specifically
5 did you believe was going to be detrimentally impeachable -- hold on one second.

6 So I just want to know, number one, what did you believe was going to be detrimentally
7 impeachable? Number two, as someone who's done criminal defense, these have always been the
8 easiest cases, in my experience for the prosecution, because juries typically want to believe victims.
9 They never want to get it wrong. And so, typically, from a defense standpoint, it has always been
10 the most difficult cases for me to defend against, even when there should have been, say, DNA based
11 upon the testimony or the statements of a victim and there wasn't. There have been so many
12 things that I have had to try to get over.

13 And when I say, like, trying these kind of cases, I literally had a serial rapist as a defendant one
14 time, and the evidence was -- I mean, we're talking about prostitutes, we're talking about very
15 impeachable witnesses, and they gave him life. I mean, like, it was their word against his because,
16 as you know, that's enough. If a jury believes -- the one witness rule.

17 So I'm curious to know, what is it that you felt like was so impeachable about them? And
18 then I'll go on to my next because I did want to know why you felt like these cases were so bad.

19 Mr. Min. Can I get an answer to my question?

20 Mr. Garcia. What we're going to do is we're going --

21 Mr. Neiman. Please.

22 Mr. Acosta. So I didn't finish, and so I'm aware, but -- and you'll probably rephrase at some
23 point and remind me. So let me first say, it wasn't solely my opinion. It was the opinion of the
24 first assistant. It was the opinion of the Criminal chief. It was the opinion of the managing
25 attorney of the Palm Beach office, who had at one point been the head of Public Corruption in

1 Washington, D.C., and who went on to be chief of staff in the Criminal Division. The first assistant
2 went on to be the U.S. attorney under the following administration. And it was even the opinion of
3 the career prosecutor that was prosecuting the case, where she said, you know, everyone that says
4 this would be an easy case -- you know, and, again, let me read you her words in a sworn statement
5 in the CVRA: "Some have alleged that Epstein would easily have been convicted, and all victims
6 were eager to participate in a full-fledged Federal prosecution. As the prosecutor who handled the
7 investigation, I can say that these contentions overlooked the facts as they existed at the time."

8 And so --

9 Ms. Crockett. And I'm not contesting that. I want you to know that. I'm not contesting
10 that representation. What I'm asking you to do is transport us into that room. If you're saying
11 that there was an entire team of people that came to this conclusion, my question is, that's still not
12 giving me -- you're saying that they were impeachable.

13 Mr. Acosta. So I'm going to offer you -- so you're looking for granularity. So if you look at
14 the same statements by her in her sworn declaration and by the FBI case agent, we can start with,
15 several of the victims just refused to talk to the investigators. They refused to talk to the agents. I
16 subse- --

17 Ms. Crockett. Let me ask you this. So if a witness refuses to speak to law enforcement,
18 you believe that makes them impeachable?

19 Mr. Acosta. I don't believe that makes them impeachable. This is going to the viability of
20 the case.

21 Ms. Crockett. Okay. So can we back up really quick. My question was -- and the only
22 reason I jumped in is because my ears perked up -- because it seemed like one of the main reasons, if
23 not the main reason, for deciding that there was an inherent weakness in the case had to do with
24 multiple victims being impeachable. So I am trying to understand, what is it that was impeachable
25 about multiple victims?

1 Mr. Acosta. And what I'm -- and if you'll let me. So some -- some victims just wouldn't
2 talk, and obviously they couldn't be impeached if they didn't talk.

3 Ms. Crockett. Correct.

4 Mr. Acosta. Right? Some victims said he did nothing wrong, just outright. And, look, you
5 know, our prosecutors have been around the block, they know just because a young woman says he
6 did nothing wrong doesn't mean he did nothing wrong.

7 Ms. Crockett. Correct. Correct.

8 Mr. Acosta. Many were scared and just didn't want to testify. You know, many had
9 backgrounds. Multiple kept going back to his house again and again. And while nowadays that
10 would not be an issue, this was 2006, this was a time when Weinstein and Cosby and all these other
11 folks were doing what they were doing. And something that we don't want to accept -- let me
12 rephrase because that's not -- something that's really hard for us to internalize is how much harder
13 these cases were back then. Victim shaming was much more common. The support structures
14 that we have for victims today, all the victims' rights, the victim support structures, didn't exist to the
15 same extent at the time.

16 They didn't want to talk about it. They said they did nothing wrong. Their stories changed
17 over time. And this is not me speaking. This is telling you what I was hearing from the
18 prosecutors that did this again and again. The woman who came down from the child exploitation
19 section --

20 Ms. Stansbury. I'm sorry. Can I interrupt you just really quickly on this particular point?

21 Mr. Neiman. Well, if he could finish.

22 Ms. Stansbury. I just want to clarify, because as I understand it, the lead prosecutor in this
23 case actually sent you a memo recommending prosecution and drafted a 53-page indictment, did
24 they not?

25 Mr. Acosta. So we talked about this, and I'm happy to circle back, if I could.

1 Ms. Stansbury. But you just asserted just now that the lead prosecutor in this case did not
2 recommend prosecution and indictment. Didn't you just say that?

3 Ms. Crockett. No, no, no.

4 Mr. Acosta. What I did -- and can I finish one question, then I'll get to yours and I'll get back?

5 Ms. Crockett. I'll clarify. I don't think that's what -- because we're trying to figure out why
6 they did not go -- this is after they were actually pursuing charges of some sort, and we're trying to
7 figure out why it was that they weren't heading to a trial and why they decided to enter into what
8 has been characterized as a sweetheart deal. And as I understood the testimony from the witness,
9 it was because -- or partially because of impeachable issues with some of the witnesses. But it
10 doesn't sound like -- and you can finish, for sure, I want you to finish. But in everything that you've
11 said, it doesn't sound like there was very much impeachment.

12 It seems like we are going more so into territory, and please correct me if I'm wrong, that is a
13 matter of it was just going to be a difficult prosecution, which typically when dealing with child sex
14 cases, which is why I'm happy that you were talking about the person who actually had an expertise
15 in this area, because there are experts that testify typically as it relates to children and their
16 memories and why the trauma a lot of times can cause them to have inconsistencies, and judges
17 have consistently found that those experts can take the stand so that juries can have a full picture of
18 what's going on.

19 And while I appreciate the time period, I do want to clarify that I was practicing law by this
20 time and having to deal with some of these issues on the defense side. So please continue as you
21 were talking about the...

22 Mr. Acosta. So -- no. And I appreciate that, and I think it's an important question. And
23 so -- where was I? So, you know --

24 Ms. Crockett. The child exploitation.

25 Mr. Acosta. Yeah. So an expert in child exploitation from Washington came down, this

1 was a little bit later, but it sort of aligns, it confirms the opinion of my prosecutors, of our
2 prosecutors, from Washington came down and she looked at the entire case. And this was -- these
3 were her words, these aren't mine -- where is it? I can't find the exact quote right now.

4 But she looked at the entire case and she said there are a number of evidentiary issues. And
5 while there are not, quote/unquote, insurmountable, in her opinion it was a, quote/unquote, crap
6 shoot. Her word was crap shoot. And so --

7 Mr. Min. Which gets right into my question.

8 Mr. Acosta. And so we were looking at -- we are looking at a case. So from our
9 perspective -- and I sit around the table with the managing attorney and the Criminal chief and all of
10 that, and talk about how do we do this. The State attorneys, candidly, dropped the ball, right. The
11 State attorneys offered pre-trial diversion. Epstein -- the Palm Beach Police wanted what I
12 understood to be 2 years. The State attorney offered probation. When Epstein rejected
13 probation he said, oh, let's take it to a grand jury. And the reason he wanted to take it to a grand
14 jury is there was great consternation within his office about whether or not this was a case in the first
15 place, a viable case.

16 He took it to grand jury. He presented the grand jury all the charges from the highest to the
17 lowest. And he didn't have to do a grand jury, but he chose to. The grand jury came back with a
18 relatively low charge that made him eligible for pre-trial diversion. He entered into an agreement
19 with Epstein to do a pre-trial diversion. And then the -- you know, then what do we do. The Palm
20 Beach Police get upset at this process, and in this process come to our office.

21 And so the question is what is the value of a sure thing where someone like him goes to jail
22 and has to register, and you send a signal to the community that he can't get away with all of this,
23 versus going to trial and doing a crap shoot, quote/unquote, not my words, where he might get away
24 with it again.

25 Mr. Garcia. Mr. Acosta, let me do this, do you have anything else to add on Ms. Crockett's

1 questioning?

2 Mr. Acosta. No, but I --

3 Mr. Garcia. I'm going to let you briefly finish -- hold on one second. I'm going to let you
4 finish Mr. Min's question really briefly, and Mr. Frost has a question, and then we're going back to
5 the attorney.

6 Mr. Min. I want to rephrase the question and add a slight addendum. So, basically,
7 if your -- if you thought your case was weak evidentiarily, and your chief prosecutor thought that the
8 computer evidence, which was not being produced by the defense, and a series of notable
9 back-and-forth, why would you not -- and she thought, I don't want to say -- this would have put the
10 case completely to bed -- that was a quote from her -- why would you not support her efforts to
11 obtain that information and instead enter into either a settlement or a non-prosecution agreement?

12 And then as a followup, I just want to add that according to the OPR report, Villafana learned
13 that the computer equipment was in the possession of a particular individual who's not identified in
14 the OPR report. Are you able to share with us who that individual is?

15 Mr. Acosta. So, one, I am not able to share who that individual is because I have no idea.

16 Mr. Min. Okay.

17 Mr. Acosta. Second, in my usual course, I would sit around with my supervisory staff and
18 we'd talk about some of the issues that we just talked about, we'd talk about policy issues. How the
19 investigation proceeded and what they sought and the types of evidence that they sought is not
20 something that I typically became involved with. So I can't answer your question. What I can say
21 is at some point -- at some point, the team thought that it was appropriate to go forward with a plea
22 negotiation, and we went forward with that.

23 Mr. Min. But you didn't think that it was appropriate to get the computer evidence?

24 Mr. Acosta. I don't recall discussions about the computer evidence. U.S. Attorney, this is
25 an office much like -- I believe you're from the L.A. area. This is an office very similar to -- I'm sorry.

1 Are you from the --

2 Mr. Min. Orange County.

3 Mr. Acosta. Yeah. Yeah. So an office the size of pretty much the L.A. office, there are
4 multiple cases. As U.S. attorney, I would get involved in ultimate decisions such as how do we plead
5 this, do we go State versus -- you know, do we do a deferred prosecution to the State, what are the
6 terms that we're looking at. I had amazing attorneys that are expert in this, and the gathering of
7 evidence is something that I would leave to them.

8 Mr. Min. I am not satisfied with that answer, but I will yield to my colleagues.

9 Mr. Garcia. Let's go to Mr. Frost.

10 Mr. Frost. I want to chat really quick about the work release. You mentioned that you in
11 writing objected to it?

12 Mr. Acosta. Yes.

13 Mr. Frost. Was that to the sheriff directly or to someone in the office, or who did you reach
14 out to?

15 Mr. Acosta. I don't recall, but our office reached out to whatever Palm Beach
16 authority -- whatever Palm Beach authority was responsible for the work release. I believe it was a
17 sheriff. It may have been the State Attorney's Office. But I'm leaning in the direction of the sheriff
18 because the sheriff is the office that authorized that.

19 We had received assurances from both defense counsel and throughout the process that
20 there would be, quote/unquote, continuous confinement. We understood that to be the case.
21 When the work release happened, I believed we weren't even notified. When we found out about
22 it, the office objected to it and --

23 Mr. Frost. Were these emails?

24 Mr. Acosta. I think it was a -- I don't know if it was an email transmitting a letter, but I
25 believe it was an actual letter.

1 Mr. Frost. Is that typical of your office, to send letters in terms of objecting to work release
2 or anything like that?

3 Mr. Acosta. I don't know if that was typical, and I want to check the record, but --

4 Mr. Frost. Do you have the records on that?

5 Mr. Acosta. Well, I have the OPR report that goes into that and talks about that. I don't
6 have independent records, but I do have the OPR report. And I believe there is a -- page 113 talks
7 about the assurances they received, and then it talks about the -- sent a letter to his attorney, and I
8 believe a letter was ultimately sent to the Palm Beach sheriff. Our office --

9 Mr. Frost. You're saying you sent a letter to his attorney objecting on the work release?

10 Mr. Acosta. I believe the office sent a letter to his attorney --

11 Mr. Frost. And you might have sent a letter to the sheriff?

12 Mr. Acosta. And I believe -- so the office fully objected. Twenty years later, I do not know
13 which letters went, but OPR found that the office fully objected to this work release. It was not
14 what we thought. All of us were upset about it. If we thought he would have been put out on
15 work release, it would have looked really different, because all of us thought very -- you know, all of
16 us --

17 Mr. Frost. To your recollection, did you give the order to object to it or did someone under
18 you make that decision and object to it? You're saying the office objected to it.

19 Mr. Acosta. To my recollection, I don't think I had to give the order because the entire office
20 was upset over it, because our understanding was that he would be in jail. Throughout the entire
21 time what we were seeking is that he would be in jail.

22 Mr. Frost. How often do those objections lead to anything, in your tenure as an attorney?

23 Mr. Acosta. As a general matter, if the U.S. attorney objects to those types of things, often
24 people do listen. And if the U.S. Attorney's Office objects, often people do listen. And if you look
25 into the details of how he obtained the work release, the details are troubling at best.

1 And so, you know, I can't speak to what Palm Beach did, but I can speak to the fact that
2 everyone in our office was upset because that is not what we contemplated.

3 Mr. Garcia. Thank you, Mr. Frost. We're going to go back to --

4 BY MR. [REDACTED]:

5 Q Mr. Acosta, just to follow up on that answer. The OPR report took issue with your
6 office's reliance on the State and the trust it reposed in the State to ensure --

7 A I'm sorry. Can I just interrupt to --

8 Q Let me finish my question, please. -- to ensure that Mr. Epstein was incarcerated for
9 his full sentence, and it faulted your office for reposing that trust without the knowledge of how the
10 State system worked or an understanding of the mechanisms of State enforcement. Is that a
11 conclusion that you would dispute?

12 A I think -- so I'm sorry, but -- so the letter did go out to the Correction Division of the
13 Palm Beach Sheriff's Office, and I believe that was on December 11th, from the office. And so, I'm
14 sorry, could you restate?

15 Q Sure. My question is simply, would you disagree with OPR's conclusion that reposing
16 trust in the State to ensure that Jeffrey Epstein served his full sentence in State prison was an error in
17 judgment?

18 A I wouldn't. I would not disagree. I think the State turned out to be an unreliable
19 partner on multiple levels. And had we known the way it would have gone, we would not have
20 done so. And so, yes, that is on me.

21 Q Okay. I wanted to return to a point you had made earlier because I think this is pretty
22 fundamental to our conversation. You've spoken a lot about your office's assessment of the
23 litigation risk, which informed the decision of whether to plead out or to proceed to trial. That's an
24 assessment that every U.S. Attorney's Office makes in every case. Would you agree with that?

25 A I think to call it litigation risk undervalues what it's about, because it's not just about the

1 risk of trial. It's about signals that are sent to the community. But that is certainly something that
2 is part of every case.

3 Q Okay. And, you know, there were clearly different views within the office about
4 whether it was advisable to go to trial or not. But it didn't follow, from the existence of litigation
5 risk or the other implications that you've described of potentially going to trial, that the result should
6 be a non-prosecution agreement to a single State charge and an 18-month sentence. That was not
7 an inexorable resolution whether or not there was litigation risk. Isn't that correct?

8 A So the litigation -- so I understand your question, but the litigation, because of the
9 viability of the case, because of some legal issues that we've already discussed, and because of the
10 importance to the community of putting him away and sending the signal that people like him can't
11 get away with it, we made the assessment, and I ultimately approved 2 years, registration, and --

12 Q Two years incarceration?

13 A Two years incarceration, registration, and a mechanism for victims to recover some
14 monetary money, not because it makes them whole, but because it at least would help. In the
15 process --

16 Q I understand that --

17 A In the process of negotiation, some of those terms changed from 24 months to
18 18 months.

19 Q Sure.

20 A And the trial team --

21 Q I understand all that. But my question is, the NPA wasn't the only possible resolution,
22 right? You could have pled to Federal charges. You had a line prosecutor who proposed 53
23 counts. So there clearly was a lot of middle ground in between your assessment of litigation risk
24 and the outcome that you ultimately agreed to. Isn't that right?

25 A So if your question -- if your question is was the deference to the State the only possible

1 outcome, my answer would be, no, we could have proceeded federally with, for example, a 371 with
2 a Rule 11.

3 Q Thank you.

4 BY MR. [REDACTED]:

5 Q Mr. Acosta, I'm going to change gears a bit. When did you first become aware that
6 Donald Trump had a social relationship with Jeffrey Epstein?

7 A So I haven't the slightest idea, but certainly not during the pendency of this case.

8 Q And as part of the investigation into Jeffrey Epstein, while you were U.S. attorney, was
9 Donald Trump ever interviewed?

10 A Not to my knowledge. But to also be clear, I wouldn't know, as a general matter, who
11 was interviewed or not interviewed because, as I mentioned to the gentleman from -- is it -- from
12 California earlier -- I was trying to remember the city, sorry -- the gentleman from California, it would
13 not have been my practice to get involved in who was and was not interviewed or the -- how the
14 evidence was acquired.

15 Q Understood. But you --

16 Ms. Stansbury. Can I follow up on that question?

17 Mr. Acosta. But let me be clear. To my knowledge, Mr. Trump, President Trump was not
18 interviewed.

19 Ms. Stansbury. I just want to follow up on that specific question. So it was not a part of
20 your practice in making decisions about whether to prosecute or not prosecute to actually review the
21 302s and evidentiary, investigatory things that were collected as a part of the case?

22 Mr. Acosta. So -- so --

23 Ms. Stansbury. It's just a simple question.

24 Mr. Acosta. And I'm going to give you a fulsome answer. So as a general practice in a U.S.
25 Attorney's Office, there are experienced prosecutors, and they look at the 302s and they look at

1 the --

2 Ms. Stansbury. But did you in this case? It's just a yes or no. Did you review the 302s in
3 this case?

4 Mr. Acosta. As U.S. attorney, it was not my practice to review 302s.

5 Ms. Stansbury. But did you in this case?

6 Mr. Acosta. In this case I did not review the 302s.

7 Mr. [REDACTED]. Thank you.

8 Sir, I'm going to hand you what will be marked as Minority Exhibit A, and my colleague will
9 pass around copies for you.

10 [Acosta Minority Exhibit A
11 was marked for identification.]

12 BY MR. [REDACTED]:

13 Q Now, sir, what you have in front of you is a New York Magazine article dated
14 October 28th, 2002, titled, quote, "Jeffrey Epstein: International Moneyman of Mystery." Quote,
15 "Terrific guy," Donald Trump booms from a speakerphone. "He's a lot of fun to be with."

16 And if I hadn't mentioned this, this is dated October 28th, 2002.

17 And, Mr. Acosta, I am going to have you turn to the fourth page of this document. The top
18 of the page there you'll see starts, "The wizard." Do you see that?

19 A Yes.

20 Q And if you go three paragraphs down, there's a paragraph that starts, "Epstein likes to
21 tell people." Do you see that?

22 A Yes.

23 Q This paragraph reads, Epstein likes to tell people that he's a loaner, a man who's never
24 touched alcohol or drugs, and whose nightlife is far from energetic. And yet if you talk to Donald
25 Trump, a different Epstein emerges. Quote, "I've known Jeff for 15 years. Terrific guy", end

1 quote, Trump booms from a speakerphone. Quote, "He's a lot of fun to be with. It is even said
2 that he likes beautiful women as much as I do, and many of them are on the younger side. No
3 doubt about it -- Jeffrey enjoys his social life."

4 Mr. Acosta, this article was published in 2002 before the U.S. Attorney's Office launched its
5 investigation into Jeffrey Epstein. Was Donald Trump ever questioned about this article or this
6 quote that he gave to the reporter?

7 A So first --

8 Q It's a yes or no question.

9 A Not to my knowledge.

10 Q Thank you.

11 Sir, I'm going to hand you another exhibit which we'll mark as Minority Exhibit B.

12 Mr. Biggs. Just so you know, we'd like copies.

13 [Acosta Minority Exhibit B

14 was marked for identification.]

15 BY MR. [REDACTED]:

16 Q So, Mr. Acosta, what you have in front of you is a Page Six article dated October 15th,
17 2007. It's titled, "Sex Case 'Victims' Lining Up." And I'll note for the record that Page Six is owned
18 and operated by the New York Post.

19 Now, I will read the first paragraph to you. It starts, "Lawyers." It says, Lawyers for
20 Manhattan billionaire investor Jeffrey Epstein -- who's agreed to plead guilty to soliciting underaged
21 hookers -- are bracing for a slew of lawsuits from as many as 40 young women who came to his Palm
22 Beach mansion for massage sessions, Page Six has learned.

23 And then I'll have you flip the page, and we'll go to the very last paragraph here. It reads,
24 Meanwhile, the Mar-a-Lago Club in Palm Beach last night confirmed a website report that Epstein
25 has been banned there. Quote, "He would use the spa to try to procure girls. But one of them, a

masseuse about 18 years old, he tried to get her to do things," end quote, a source told us. Quote, "Her father found out about it and went absolutely ape-[bleep]. Epstein's not allowed back," end quote. Epstein denies he is banned from Mar-a-Lago and says, in fact, he was recently invited to an event there.

Now, Mr. Acosta, as it says in this article, this was published in October 2007, after your office had executed the non-prosecution agreement with Jeffrey Epstein but before he pleaded guilty to the charges. Did the U.S. Attorney's Office ask Donald Trump about any women at Mar-a-Lago?

A So I'm going to --

Q Sir, it's a yes or no question.

A No, no, no.

Q It is very simple, sir. It's a yes or no question.

A With respect -- with respect, you're asking questions based on headlines that are pretty explosive, and I think --

Q I'm asking about your knowledge. Are you aware of anyone in the U.S. Attorney's Office asking Donald Trump about this article?

A I think -- I think --

Q It's a simple question, sir.

Mr. Neiman. Let him answer.

Mr. Acosta. I understand, but I want to provide a fulsome answer, if I can. First, these are the words of the prosecuting attorney in this case.

BY MR. [REDACTED]:

Q Sir, that's not my question. I'm asking you if you are aware --

A I am providing you --

Q -- if Donald Trump was interviewed about women at Mar-a-Lago.

A I am not aware of who was interviewed and not interviewed in the case generally

1 because U.S. attorneys do not become involved in deciding who gets interviewed and who does not
2 get interviewed.

3 Q I do believe you said in this hour, the decisions are mine. You are the U.S. attorney.
4 Is that right?

5 A So when I said the decisions are mine, you're taking my comments out of context,
6 because I said I am ultimately responsible for what my office does. I'm not pushing away blame.
7 I'm not pushing away responsibility. That doesn't mean that the U.S. attorney of a district with
8 several hundred attorneys, even in high-profile cases, directs who is interviewed and not
9 interviewed.

10 And so as U.S. attorney, I do not have knowledge who was interviewed in this case. As U.S.
11 attorney, I don't have knowledge who was interviewed in the Abramoff case, which we did as well.
12 As U.S. attorney, I don't have knowledge in who was interviewed in the UBS case, which was a major
13 case.

14 So as U.S. attorney, my job was to allow my line prosecutors, our line prosecutors, line
15 prosecutors that have great experience, one of whom -- one of the supervisory attorneys of whom
16 used to be the head of Public Corruption, Public Integrity here in Washington, D.C., to determine how
17 to proceed with investigations.

18 Q Thank you.

19 You have relied frequently on the OPR report, and you'd with me that the OPR report outlines
20 that you negotiated the non-prosecution agreement. Is that right?

21 A That is not correct, and that is --

22 Q That is not correct?

23 A -- not what the OPR says.

24 Q Did you have any role in negotiating the non-prosecution agreement?

25 A The OPR report says that I ultimately approved the term sheet that required 2 years,

1 that required registration, and that required a mechanism for individuals to recover monetary, and
2 so I approved that.

3 Q Understood.

4 A It was then negotiated after that by the AUSAs. The report also says --

5 Q Did you meet with Epstein's defense attorneys?

6 A Let me finish. If I could finish my answer, please. The report, as I was saying, that
7 also says that Epstein's defense attorneys then requested a meeting. It says that I then went to our
8 first assistant and I said, I bet you this case ends up in Washington, because what they had done was
9 they had hired Mr. Starr. And --

10 Q And Mr. Lefkowitz.

11 A And Mr. Lefkowitz.

12 Q And Mr. Dershowitz.

13 A And Professor Dershowitz. And when they hired them, I predicted -- I got a phone call
14 asking for a meeting. I predicted to my career first assistant that the case would end up in
15 Washington. I said, we should meet with them so that the first time Washington hears about this is
16 not the south Florida office refused a meeting.

17 I then asked him to call the Criminal Division in Washington, D.C., and invite the head of the
18 Child Exploitation and Obscenity Section, who are the experts in this from Washington, D.C., down to
19 the meeting so that the Child Exploitation and Obscenity Section would be fully briefed on the case,
20 would be fully briefed on how we were proceeding on the case, would know what we were doing,
21 because my prediction was that this would end up in Washington --

22 Mr. Garcia. Thank you, Mr. Acosta. I think we're going to -- [REDACTED], we're going to move on?

23 Mr. [REDACTED]. Yes.

24 Mr. Garcia. Yeah. I'm going to move on to Mr. Subramanyam really quick. But before I
25 do that, really quick, I just want to be clear also, when you were -- during your time as U.S. attorney,

1 did you ever speak to Donald Trump generally?

2 Mr. Acosta. I did not.

3 Mr. Garcia. So you never -- the entire time you were U.S. attorney, you never once spoke to
4 Donald Trump?

5 Mr. Acosta. The entire time -- let me be more clear. I did not speak with President Trump,
6 with Donald Trump before I was considered for Secretary of Labor.

7 Mr. Garcia. Thank you.

8 Mr. Subramanyam. I was going to ask that too. But had you met him before?

9 Mr. Acosta. There was one instance where I saw him in the lobby across the way and I
10 remember thinking, oh, that's Donald Trump. If you define that as meeting. We didn't have a
11 conversation. I just saw him kind of like I'm seeing people in this room.

12 Mr. Garcia. You never had a phone conversation, also not just a meeting, never a phone
13 convers-- any kind of conversation with Donald Trump before?

14 Mr. Acosta. I did not have an in-person conversation. I did not have a phone conversation.

15 Mr. Min. Email?

16 Mr. Acosta. We hadn't shaken hands.

17 Mr. Subramanyam. What about with any of his associates?

18 Mr. Min. Email? Text? Any of that?

19 Mr. Acosta. No email, to my recollection. No text, to my recollection. No associates, to
20 my recollection. He moved in circles that I did not move in, to be honest.

21 Mr. Frost. Can I ask real quick. During the time that you were considering this case, did
22 anybody reach out to you, you know, any form of communication inquiring about it?

23 Mr. Acosta. So the office got any number of communications. I assume you mean from
24 the media --

25 Mr. Frost. You personally.

1 Mr. Acosta. -- and those have gone through -- so it was 20 years ago. I don't know if a
2 reporter at some point cornered me and asked me a question if --

3 Mr. Frost. Anybody from Washington?

4 Mr. Acosta. So at some point, the case was appealed to Washington, and at that point then
5 there were conversations. Primarily letters that we provided Washington, but --

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1 [12:09 p.m.]

2 Mr. Frost. No. Specifically around the NPA and consideration over it, did anyone reach out
3 to you? From Washington? Anyone from local government in Florida, in south Florida?

4 Mr. Acosta. So is your question, before the non-prosecution agreement was signed --

5 Mr. Frost. Yes, before it was signed.

6 Mr. Acosta. -- were there any communications by government officials?

7 Ms. Frost. Government officials, donors, anyone like that that would reach out to you asking
8 questions about this case or to provide their --

9 Mr. Acosta. I don't recall any communications from what you would term as "donors"; I'll
10 just call them "wealthy people."

11 Mr. Frost. Wealthy people.

12 Mr. Acosta. I don't recall any communications.

13 So I reached out to Washington to ask the head of the Child Exploitation and Obscenity
14 Section to come to our meeting, because I wanted Washington to be fully briefed because I thought
15 Washington would be brought into this. That was my reaching out.

16 And so, in that process, I'm sure that there was some back-and-forth so that the person could
17 come to this meeting, where, to be clear, I rejected every ask the defense made of me, and I said,
18 we're going with the original --

19 Mr. Frost. Okay.

20 Mr. Acosta. -- decision that I made.

21 Mr. Frost. Just to skip ahead in the timeline, did you discuss with President Trump or
22 anyone in his administration -- fast-forward to when you were being considered for Secretary of
23 Labor. Before the confirmation, did you discuss Epstein?

24 Mr. Acosta. I'm going to answer that fully, but your prior question, I think, was very
25 important, and I want to be clear. I did not receive communications from donors.

1 I likely received some communications from the State attorney, because the State
2 attorney -- and I don't recall any communications, but if it was not with me, it could've been with my
3 office. I think the State attorney would have had some equity in what we were doing because we
4 were requiring jail time where he was not.

5 Mr. Frost. Okay.

6 Mr. Acosta. But --

7 Mr. Frost. I'm going to --

8 Mr. Acosta. -- I don't recall any of what you would characterize as improper communication.

9 Mr. Frost. Okay.

10 Mr. Acosta. Now, going forward, your question was?

11 Mr. Frost. When you were being considered to be the Secretary of Labor --

12 Mr. Acosta. Yes.

13 Mr. Frost. -- in your conversations with Donald Trump or anyone in his administration, did
14 you talk about the Epstein investigation?

15 Mr. Acosta. The first time --

16 Mr. Frost. Before confirmation.

17 Mr. Acosta. The first time that I recall --

18 Mr. Neiman. Before confirmation.

19 Mr. Acosta. -- talking about this -- from the time I was being considered for a position in the
20 Trump administration to confirmation, the first time I recall talking about this is -- there may -- I don't
21 know -- there are two points at which I may have -- one point at which I did and one point at which I
22 may have.

23 The point at which I did was, I believe there were some stories -- I forget where. I know in
24 The Washington Post there was a story above the fold at one point, but I think that was later. And
25 so I talked to the communications team, because the communications team needed to be briefed

1 about it, obviously. And so I had a conversation with the communications team.

2 Mr. Frost. And then you said there was another?

3 Mr. Acosta. And the other instance where I may have had a communication -- I don't recall
4 if I did or if it was simply -- or if there was some written question or otherwise. But at some point in
5 the vetting process, a question may have arisen. And if the question arose --

6 Mr. Frost. And you don't remember?

7 Mr. Acosta. I honestly don't remember. But if the question arose in the vetting process
8 where the FBI does its background --

9 Mr. Frost. Okay. Okay.

10 Mr. Acosta. -- then I --

11 Mr. Frost. Very good. Thank you.

12 Ms. Crockett. Okay. So I've just got two questions, and you may not be able to finish
13 answering them before we have to end this part. I still want them to get on the record, because I'm
14 going to have to go.

15 You talked about how weak the case was, and there were a number of followup questions on
16 that from Dave Min. I'm trying to figure out, are you aware as to whether or not any of Jeffrey
17 Epstein's employees were ever interviewed as part of the investigation?

18 Mr. Acosta. So, again, as U.S. attorney, I did not get involved in who was --

19 Ms. Crockett. Okay.

20 Mr. Acosta. -- interviewed. They may have been interviewed; they may not have.

21 Ms. Crockett. Okay.

22 Mr. Acosta. That was not -- that was not the role that I played in this.

23 Ms. Crockett. Okay. I understand.

24 And the only reason I ask is because you talked about basically how you all came together,
25 and I'm aware that a lot of times there's basically, like, conferences that you pull together your entire

1 team and you talk about these things, right? But it doesn't sound like you asked those questions in
2 those meetings either to know whether or not, well, did you go and do this, that, or whatever, the
3 things to better the case and make the case stronger.

4 But I'm going to hold that there. And if you have anything to provide as it relates to
5 testimony of things that you did to try to make the case better or to try to make sure that you had
6 everything that you could to make sure it was the best case, then please let us know on the record
7 later.

8 But the final question -- because I want to kind of get to the end -- is, it sounds like you had
9 lots of meetings with lots of people, but it seems like the victims were left out of this. And
10 ultimately we know that there was a problem with you potentially -- I don't know the exact
11 language -- violating Federal statute that requires victims to be made aware.

12 So, while there were all these other conversations taking place -- and I'm used to prosecution
13 offices talking to victims and explaining to victims why they are going to have weaknesses with their
14 cases and explaining prior to making an offer. Because there have been victims that have told
15 prosecutors, "Yes, I hear you saying that the case is weak, but I want to testify, I want my day in
16 court, I want you to go forward," and I've had prosecutors go forward simply because victims are
17 saying, "We want you to go forward."

18 It doesn't sound like that was done. If it was done, please let us know. But it's my
19 understanding that Sarah Kellen, Nadia Marcinkova, and Adriana Mucinska -- I'm messing that
20 up -- that they were being investigated as co-conspirators or that they were being included in the
21 NPA either before or after it was signed.

22 But is that common practice for the Southern District of Florida, number one? And how can
23 you explain including young women in a non-prosecution agreement without their knowledge at the
24 request of a clear serial sexual predator?

25 Mr. Acosta. Okay. So let me -- that was a lot of questions. Let me try to take the gist of

1 this.

2 In reading from the case agent's sworn statement -- I believe you cited litigation where they
3 filed suit under the CVRA.

4 Ms. Crockett. Yes.

5 Mr. Acosta. So, first, at the time -- and it has since changed, but, at the time, it was the
6 Department of Justice's position that the CVRA did not attach until indictment. And that was the
7 written position under an Office of Legal Counsel decision.

8 And so things have changed, but I want to be very clear up front. The Office of Professional
9 Responsibility reviewed this matter fully. And there are some things -- I agreed with the question
10 earlier where I agreed with the criticism of OPR. But OPR found we did not violate any law, we did
11 not violated any Department policy, and there was no misconduct with respect to victim notification.

12 Reading from the case agent's sworn declaration: "Many of the victims were troubled about
13 the existence of the investigation. Some victims who were identified through the investigation
14 refused even to speak to us. During interviews conducted from 2006 to 2008" -- continuing
15 after -- after -- the agreement was signed -- "no victim expressed a strong opinion that Epstein be
16 prosecuted."

17 And so that was actually filed in response to the claims that you made in that -- that you
18 quoted from that litigation. That is the litigation that preceded and that declaration was filed as a
19 response to the claims that you made.

20 Now, with respect to victim notification, very briefly, one of the issues that arose -- and this
21 went a little bit to your question about some of the difficulties that I will own with the proceeding on
22 the State -- was that we included a provision that allowed the victims to recover monetary damages.
23 And our prosecuting attorney and the FBI case agent started notifying the victims.

24 And this isn't my recollection, let me be clear. This is what the OPR discussed and found.
25 Because, you know, I was not, as U.S. attorney, supervising victim notification. This was, you know,

1 left to the prosecuting attorneys and the supervisory chain. And this is what OPR found.

2 And so they became concerned that they were generating more impeachment evidence,
3 because if victims became aware that they could recover monetarily, they would have -- when
4 they're put on the stand, you can imagine how the questioning would go. "Isn't it true that if this
5 person is convicted you stand to recover \$100,000?" or \$150,000 or whatever the amount was.

6 And because of that, they went to their professional responsibility officer, to their ethics
7 officer, and said, "We feel uncomfortable continuing with these victim notifications." And the
8 ethics officer at the time told them, "If you feel uncomfortable, then don't go forward."

9 And so the notifications, based on my understanding of the OPR report, proceeded (ph) by
10 saying the investigation is ongoing -- because, at that time, the appeal was pending in D.C. and we
11 didn't know how it would turn out.

12 And so that is the decision that was made. It was made with the best of intentions of
13 preserving the case, and it was made in conjunction with the professional responsibility officer of the
14 office.

15 Mr. [REDACTED]. We're going to end the Democratic round there, but before we do, Ms. Stansbury,
16 can you please introduce yourself on the record?

17 Ms. Stansbury. I'm Melanie Stansbury, New Mexico. Thank you for being here.

18 Mr. Acosta. How are you?

19 Ms. Ansari. Hi. Yassamin Ansari, Arizona's Third.

20 Mr. Acosta. How are you?

21 Mr. [REDACTED]. Great. We'll go off the record.

22 [Recess.]

23 Mr. [REDACTED]. We'll go back on the record and back to one questioner --

24 Mr. Acosta. Please.

25 Mr. [REDACTED]. -- of regularly scheduled programming.

1 BY MR. [REDACTED]:

2 Q So, just for a clean record, the Epstein case in the Southern District of Florida was
3 resolved via non-prosecution agreement, correct?

4 A Yes. So -- yes, it was.

5 Q And you -- I want to differentiate a little bit. Did you approve the terms of the NPA
6 itself or -- you've been using "terms sheet," I think was the language that you've been using. Is
7 there a difference between the two?

8 A So the terms sheet was the initial proposal that was presented to the defense, I believe
9 in late July. The ultimate agreement differed primarily, as we've already discussed, from 24 to 18.

10 Q Uh-huh.

11 A And I approved both.

12 Q Okay.

13 Is there a difference between a non-prosecution agreement and the kind of colloquial plea
14 agreement?

15 A There is.

16 Q What is it?

17 A So a non-prosecution agreement is typically kept in the U.S. Attorney's Office, and it's an
18 agreement not to prosecute. And, in this case, it was in deference to the State that would be
19 prosecuting pursuant to these terms.

20 Q Are plea agreements traditionally more public than non-prosecution agreements?

21 A Non-prosecution agreements traditionally are not public.

22 Q Okay.

23 A Or at least were not public traditionally at that time.

24 Q At that time. So a non-prosecution agreement, like, wouldn't -- I'm sure PACER didn't
25 exist in 2006, but -- wouldn't go online or wouldn't be available at a courthouse for public view?

1 A It would not. It would be kept within the U.S. Attorney's Office.

2 Q Was that part of the rationale to choose a non-prosecution agreement versus a plea
3 agreement?

4 A No, it was not.

5 Q Did defense counsel ever suggest that they wanted it to remain private?

6 A So, at some point in the process, that came up, and that came up in the negotiation
7 process. As a matter of just U.S. attorney policy, it would remain within the U.S. Attorney's Office.
8 But it's always subject to FOIA.

9 Q Okay. But from your side of the negotiating table, it being private was not pivotal in
10 the negotiations.

11 A It being private was not pivotal at all.

12 Q Was there ever discussion in forcing a plea agreement verses an NPA?

13 A I don't understand the question of forcing a plea agreement.

14 Q So it was obviously in the defense's interest for an NPA, because one of the rationales, I
15 would think, would be that it's not a public document. Did it ever come up in conversation of the
16 U.S. Attorney's Office would prefer a public document versus the NPA?

17 A So I wasn't part of the team that negotiated this, and so I can't speak to what came up in
18 conversation. The ultimate plea was in State court.

19 Q Uh-huh.

20 A So we need to be -- well, let me separate out the terms. The plea was in State court.
21 It was a public State plea. The Federal resolution was that we are going to withhold prosecution
22 pending the State plea and his serving his term --

23 Q Okay.

24 A -- as we had envisioned it, under continuous confinement, in the State court.

25 Q Okay. Thank you.

1 I'm going to introduce -- I think it's exhibit 2 -- the actual NPA.

2 [Acosta Majority Exhibit No. 2

3 was marked for identification.]

4 BY MR. [REDACTED]:

5 Q So this is the non-prosecution agreement in the Epstein matter.

6 Just for the record, this looks like the non-prosecution agreement that you approved?

7 A It does, and it has signatures, so yes.

8 Q I believe from everybody.

9 A Yes.

10 Q And it was originally signed in September 2007, but he did not plead in State court until
11 the summer of 2008. Is that your recollection as well?

12 A That is my recollection.

13 Q Do you recall as to why the large delay there?

14 A Yes. Because after he signed it we expected him to plead right away, like defendants
15 typically do, and then he started challenging it collaterally. He started challenging the authority of
16 the office to enter into this agreement. And then he started appealing us to Washington, D.C., to
17 the Criminal Division, and then subsequently to the Deputy Attorney General.

18 Q And you had said this before, but, in your experience, it's kind of strange for someone to
19 agree to an agreement and then attempt to backtrack?

20 A In my experience, it hadn't happened previously. And let me just add, in the
21 experience of -- I think I can speak for our office. Everyone was very upset.

22 Q Is there -- my own, kind of, intellectual curiosity. I mean, he signed it; your office
23 signed it. Was there any reason to go through the delay? Could you not summon him to court
24 and say, "You have to follow this agreement"?

25 A So, at various points in this delay process, I think everyone was -- at some point,

1 everyone became frustrated and said, why don't we just declare a breach?

2 One thing -- we did not foresee all these appeals and all these collateral attacks. And I will
3 accept that criticism.

4 But, having signed this, if we declare a breach, now we're litigating as to whether or not it is a
5 valid breach, if it's because it's a unilateral breach, and now we're putting off the criminal trial and
6 the criminal prosecution that much longer as we go through the litigation of, "So, once it's signed, do
7 we have grounds to withdraw?"

8 And we had discussions at various points about whether we should or should not. But,
9 ultimately, you know, he was appealing to Washington. We were shocked, but Washington heard
10 him out. I asked Washington to expedite the appeals, because I wanted it just done and I wanted
11 him in jail. But, you know, Americans do have a right to appeal decisions of U.S. attorneys to their
12 bosses.

13 Q But you had said, like, he was appealing after he agreed to it --

14 A Look --

15 Q -- which is unprecedented.

16 A -- it is absurd. It is absurd and unprecedented. But it is what it was. And if we
17 declared a unilateral breach, now something that's already been delayed is going to be further
18 delayed as we litigate whether or not we had a right to breach.

19 Q And then the appeals process -- you said the head of the Criminal Division in
20 Washington and the DAG? Is that correct?

21 A He appealed to the Criminal Division. I think the head of the Criminal Division
22 delegated that down. And then he appealed to the Deputy Attorney General.

23 Q So I -- well, I just -- I won't testify for you. What did the Criminal Division -- what was
24 their decision?

25 A The Criminal Division supported the office, and then the Deputy Attorney General

1 supported the office.

2 Q Who was the DAG at the time?

3 A I'm sorry. I should remember, and I don't.

4 Q That's okay. That one we can figure out.

5 But the Deputy Attorney General's Office supported the -- your U.S. Attorney's Office's
6 decision in this matter?

7 A They authorized us to go forward.

8 Q All right.

9 And was there any delay between the DAG approval and the final plea in State court?

10 A Once the Deputy Attorney General authorized it to go forward, then the plea in State
11 court proceeded -- I don't want to say "expeditiously," but -- in relatively short order.

12 Q Were you aware of any appeals to the Attorney General?

13 A I was not aware of any appeals to the Attorney General.

14 Q In non-prosecution agreements generally -- this one sounds pretty unprecedented in its
15 number of appeals and steps, but -- does a U.S. attorney have the authority to enter into them
16 without Washington approval?

17 A Yes.

18 Q What are they -- again, a general question. What kind of crimes are they normally
19 used for?

20 A So non-prosecution agreements are typically used more in the white-collar setting.

21 In this case, it was different because it's not a non-prosecution on a Federal crime, but it's a
22 non-prosecution in deference to an alternative prosecution in the State where the case began so that
23 he could proceed as police initially had thought appropriate.

24 Q So not -- I mean, this is kind of an untraditional non-prosecution agreement generally,
25 but they're not traditionally used in sex crimes or --

1 A That's correct.

2 Q -- other violent crimes?

3 This is kind of the hot-button issue going into September 29th, but are non-prosecution
4 agreements binding on all U.S. attorneys within the United States?

5 A They are not. And I'm sure as you're aware, that matter is pending in the Supreme
6 Court.

7 Q But a district court has said that, and an appeals court has said --

8 A A district court has said that, and an appeals court has said that. And that is the
9 position of the Department of Justice.

10 Q While U.S. attorney, had you used non-prosecution agreements prior to this one?

11 A Not to my recollection.

12 Q Did you use any after?

13 A Not to my recollection.

14 Q And just -- you were there for a number of years, and this was the only case that a
15 non-prosecution --

16 A So non-prosecution agreements are typically -- are more typical in the types of cases
17 that are litigated in Washington or in other districts.

18 Q Okay. You said white-collar cases?

19 A Yes.

20 Q More common financial crimes or tax crimes, those kinds of things?

21 A Correct.

22 Q All right.

23 We've touched on this, kind of around this topic, an awful lot today, and there was an awful
24 lot of back-and-forth in the last hour, but just -- this is a broad question, so as briefly as you can and
25 to the best of your recollection: Why a non-prosecution agreement in this case?

1 A So ultimately the question was, do we proceed federally or do we defer to the State?

2 It came from the State. The State police wanted certain charges, I understood, that would
3 result in 2 years. It entered the office in the context of, we may have to proceed with a double
4 prosecution. And the facts, as I understood them, were local facts. We felt comfortable that -- we
5 felt we had an argument for an interstate case, that if we had to go to trial, we had no issue going to
6 trial. But everyone favored a resolution that was negotiated. And because of all those issues, it
7 seemed that a State resolution at the time made sense.

8 As I said before, I note OPR's comments. If we had -- I think what I told the Office of
9 Professional Responsibility was, if we had foreseen all the issues that the State resolution raised, we
10 would not have gone down that path, and I don't advise others to go down that path. But we didn't
11 foresee them at the time. And when I say "we," again, that's on me. I will take responsibility for
12 that. And, in that sense, I think OPR was generally correct.

13 Q And prior to the execution of the NPA, it was largely believed in the office that a
14 negotiated agreement was -- I'm going to use the phrase, the, like, "safer" outcome. It was going to
15 result in jail time --

16 A It was the superior outcome, because it would result in jail time, it would result in
17 registration, it would send a signal to the community. And as I, you know, cited from multiple
18 people, it was the sense that you didn't have to put the victims that didn't want to go through a trial
19 through a trial.

20 And there was a continuum. We talk about the victims as if they all had one view. And,
21 you know, multiple victims with different views.

22 Q Were there -- I'll read you -- it's page 40 of the OPR report.

23 "Villafana," the lead line prosecutor on this case, "told OPR that she was angry when she
24 received Menchel's July email explaining that he had proposed to Sanchez resolving the federal
25 investigation through a state plea. In Villafana's view, the proposed state resolution 'didn't make

1 any sense' and 'did not correspond' to Department policy requiring that a plea offer reflect 'the most
2 serious readily provable offense.' In her view, a plea to a state charge 'obviously' would not satisfy
3 this policy."

4 Did Ms. Villafana ever express to you concerns regarding the language of the NPA?

5 A Ms. Villafana ended up negotiating the language of the NPA. I think -- I think it's fair to
6 say she would've preferred a Federal resolution.

7 I think my supervisory staff differed from her, in that they were comfortable with the State
8 resolution, although, to some extent, the federalism concerns, the deference to the State, if I'm
9 being fair in all this, primarily comes from me. And I think OPR found that, and I think OPR was fair
10 in that judgment.

11 Q So it's Ms. Villafana's words, not yours, but just in your interaction with her and with
12 others in negotiating this agreement or getting to this agreement, would it be fair to characterize
13 her -- and you've said this -- as in favor of a negotiated resolution but not necessarily in favor of a
14 State resolution?

15 A I think that would be fair.

16 Q Okay. I just wanted to, kind of, dissect that out because it was a little confusing.

17 Do you recall who first initiated the negotiations with Epstein's defense regarding the NPA?

18 A I do not.

19 Q Were there ever any concerns regarding using an NPA versus going to trial?

20 A So "ever" is a very broad word, right?

21 I think -- this is 20 years ago. Thinking back, these conversations, sometimes they happen
22 around the table; sometimes they also happen in a hallway. You know, the first assistant had his
23 office right next to mine; we shared a suite. The Criminal chief had his office down the hall. You
24 get together, you talk about things, and the proposal formed.

25 And ultimately I approved it, but the proposal -- people come together, they generate a

1 consensus. "What do you think? What do you think? How do we go forward?" But,
2 ultimately, look, I approved it, and -- and so I was U.S. attorney, and I take responsibility.

3 Q Would you characterize the process as, like, a rigorous debate that led to this outcome
4 versus trial?

5 A I think there was a fulsome and rigorous debate that wasn't simply one meeting but
6 happened over a number of days, if not weeks, where ideas would be discussed back and forth.

7 Q And then while -- I'm going to have two different time periods. While it was being
8 negotiated prior to it being signed in September of 2007, do you recall discussions regarding no
9 longer moving forward with it based off how defense counsel was acting or any new information?

10 A There were some -- I don't recall them, but I've read in the OPR report that there are
11 were some discussions about no longer moving forward. And it was based largely on defense
12 counsel getting very close to the line of what's proper and not proper for defense counsel to do.

13 And my view on that is, I understand defense counsel are who they are, I understand they're
14 frustrating, and I understand that they agree and then say they didn't agree. But if that's the
15 decision that we had, we should make a good-faith effort to follow through on what we thought was
16 the right approach, despite defense tactics that were frustrating at best and -- you had asked
17 earlier -- I'd say bordered on the -- it's not -- frustrating and unprofessional and it came very close to
18 the line.

1 [12:47 p.m.]

2 BY MR. [REDACTED]:

3 Q And then the next time block, between September and -- it was June or July when he
4 finally pled in State court -- you touched on it briefly, but there were discussions about declaring a
5 breach and going to trial?

6 A At some point, I think every one of us was frustrated and threw up our hands and said,
7 enough's enough, you know; do we just move forward? Because how long are we going to wait for
8 this man that agreed in September to do something, to finally do something?

9 And then, once the heat of the moment subsides, you realize that if the goal is to get him in
10 jail, declaring a breach and starting litigation over whether there was a breach in the first place is not
11 moving toward that goal.

12 Q Again, my experience in NPAs is limited to this one. It seems odd, verging on
13 concerning, that it included a blanket immunity for the Southern District of Florida to both unnamed
14 and four known co-conspirators.

15 Do you recall the origination of that line?

16 A So, as you're aware, the matter's pending litigation, and I don't want to create evidence.
17 But I'm going to read from the OPR report. It's not that I'd be creating evidence, but I need --

18 Q Yeah.

19 A -- to be careful here.

20 Page 166: "As the NPA drafting process concluded, Villafana circulated to Lourie and
21 another supervisor a draft that contained the non-prosecution provision" -- let me actually start up a
22 little bit before that.

23 "G" on page 166: "OPR examined the decision by the subjects who negotiated the
24 NPA -- Villafana, Lourie, and Acosta -- to include in the agreement a provision in which the USAO
25 agreed not to prosecute 'any potential co-conspirators of Epstein,' in addition to four named

1 individuals."

2 "Other than the various drafts of the NPA and [the] federal plea...OPR found
3 little...contemporaneous records mentioning [it]" -- dot, dot, dot.

4 "Drafts of the NPA and the federal plea...show that the final...language promising not to
5 prosecute" -- dot, dot, dot. "The provision expanded as" -- not -- I'm sorry, "not to prosecute" -- let
6 me not do "dot, dot, dot." Let's start again.

7 "Drafts of the NPA and of the federal plea agreement show that the final broad language
8 promising not to prosecute 'any potential co-conspirators of Epstein' evolved from a more narrow
9 provision sought by the defense. The provision expanded as Villafana and defense counsel
10 exchanged drafts of, first, a proposed federal plea agreement and, then, of the NPA, with apparently
11 little analysis and no substantive discussion within the USAO about the provision."

12 "As the NPA drafting process concluded, Villafana circulated to Lourie" -- who was then the
13 managing attorney in Palm Beach -- "and another supervisor a draft that contained a
14 non-prosecution provision, telling Lourie it was 'some of [defense counsel's] requested language
15 regarding promises not to prosecute other people,' and commenting only, 'I don't think it hurts us.'"

16 "In a reply email, Lourie responded to another issue Villafana had raised...but Lourie did not
17 comment on the provision promising not to prosecute co-conspirators or ask Villafana to explain why
18 she believed the provision did not harm the government's interests."

19 "In a subsequent email about the draft NPA, Villafana asked Lourie for 'any other thoughts,'
20 but there is no indication that he provided further input. OPR found no document that suggested
21 Villafana and Lourie discussed the provision further, or that the other individuals who were copied on
22 Villafana's email referencing the provision -- her immediate supervisor, the supervisor designated to
23 succeed Lourie as manager of the West Palm Beach office, and Villafana's co-counsel -- commented
24 or had substantive discussions about it."

25 "Villafana told OPR that because none of the three supervisors responded to observation that

1 the non-prosecution provision 'doesn't hurt us,' Villafana assumed that they agreed with her
2 assessment."

3 And so they went through how it came to be and discuss that. And because it's pending
4 certiorari --

5 Q No, I --

6 A -- I don't think it wise for me to comment.

7 Q I totally understand that, so I'm not going to ask about your, kind of, like, legal
8 understanding of that language, what it means to you, or anything. But the origination of the
9 language I don't think is under potential review; it's more what it means for Ms. Maxwell.

10 So the provisions from the OPR report you read said that it was a broadening of a less-narrow
11 version that defense counsel had suggested. Do you recall any conversations about why it was
12 broader?

13 A So I don't recall any conversations about this. I ultimately approved the agreement,
14 and because as U.S. attorney I ultimately approved it, I'm responsible for it.

15 What's contained in the report is -- I have no recollection of this. My assumption as I
16 approved the ultimate agreement is that we had very experienced attorneys and that this would've
17 been thought through and negotiated.

18 I was focused, honestly, on him going to jail, him serving as -- you know, him having to
19 register as an offender, and the recovery.

20 And my edits to the agreement focused on -- the agreement was directing the State to take
21 action, and I didn't think, as the U.S. attorney, I had authority to direct the State. So I changed it
22 from directing the State to directing Epstein to work with the State.

23 Q Okay. So no --

24 A I have no --

25 Q -- no overall recollection about how that sentence came to be, how those four names

1 came to be?

2 A No independent recollection of that.

3 Q All right.

4 Do you have any recollection of whether or not your office informed those four individuals
5 that they were going to be named in the non-prosecution agreement?

6 A I have no independent recollection.

7 Q And then, based off what you just said -- again, not trying -- we don't want to interfere
8 in any ongoing litigation either. But based off what you said, the past decisions, it is your
9 understanding that this language does not limit the Southern District of New York from prosecuting
10 those individuals or other known co-conspirators?

11 A So, you know, it is my -- was my understanding at the time, and as I read this I would
12 have been aware of the Department's policy, that any such provision authorized by a U.S. attorney
13 does not bind outside of south Florida. And a district court has held that. A court of appeals has
14 held that. It's pending certiorari. And that's also the written policy of the United States.

15 Q And, kind of, I mean -- and I understand it's still pending the final outcome, but -- kind of
16 exemplified by the Maxwell case of the Southern District of New York did choose to move forward
17 despite this provision being in place.

18 A That is correct.

19 Q All right.

20 I don't want to get into the nitty-gritty of the CVRA because I don't have it memorized, I'm not
21 a crime victim's lawyer. So I don't want to touch too much on the individual terms. My general
22 understanding of it is that it requires notification to potential victims prior -- I think you said prior to
23 indictment. Is that fair?

24 A At the time, the Office of Legal Counsel had written an opinion for the Department.
25 The CVRA, I think, was relatively new, had just been passed by Congress a year or two prior. The

Office of Legal Counsel had written an opinion that said it does not attach until an actual indictment. So it doesn't even attach pre-indictment. It doesn't at the time until indictment.

Q So I guess -- I mean, was there ever actually an indictment in this case?

A There was not.

Q So was there -- is it -- based off that OLC opinion, your understanding is that, if there's not an indictment, if it goes with a non-prosecution agreement and there's not a plea in court, that victims would not have to be notified?

A So, not only is that my understanding, but the Justice Department, in this 300-page report, found that there was no misconduct, no violation of law, no violation of policy, because it was the Justice Department's position that it did not attach.

And in the litigation that was cited, the Justice Department, through multiple administrations, through the Bush administration and then in the subsequent administrations, both Republican and Democrat, kept taking that position, that there was no violation because the CVRA did not attach.

Q On October 10th, Mr. Lefkowitz sent you a letter saying that -- it was cited in the OPR report -- no Federal agent or employee of the U.S. Attorney's Office "should" contact the victims to inform them of the resolution of the case. And then 2 days later you had breakfast, so I'm going to ask about the breakfast.

But I think most of us are lawyers in this room. Is there a difference between "should" and "could"?

A I would say that there is. But, you know, as the record will show later, we basically said that he's wrong and we can do what we want.

Q So you weren't precluded from notifying --

A We weren't precluded. I think -- I think the phrase that I remember from the report said, "What you're suggesting is a gag order, and the U.S. attorney does not accept a gag order."

Q Was it odd for defense counsel to suggest to you how to work with victims in an ongoing

1 case?

2 A Not this defense counsel.

3 Q Can you explain that a little bit more?

4 A I think we've talked about how this defense counsel skirted the line.

5 Q So this is one instance of them telling a U.S. attorney how to interact with victims in an
6 ongoing case. Do you have other examples off the top of your head?

7 A Of defense lawyers doing that? No.

8 Q In this case. Do you have other examples of Mr. Lefkowitz, Mr. Dershowitz, or Mr.
9 Starr --

10 A So, in this --

11 Q -- telling you --

12 A -- you know, in this very context of -- you mentioned they (ph) were going to the
13 breakfast. And then, after the breakfast -- the breakfast took place in Palm Beach. I was giving a
14 speech there. It was a convenient location.

15 And after the breakfast, I called my first assistant, debriefed him.

16 And I don't have independent recollection of this. This, again, is based on the Justice
17 Department report finding that there was no impropriety, nothing wrong with the breakfast.

18 And he then emails the first assistant, saying that I had agreed to something which I had not
19 agreed to. And we had to email him something back, saying, "You're wrong. Acosta did not agree
20 to such a thing."

21 Q Do you have any other examples off the top of your head of one of those three
22 individuals trying to, like --

23 A I think there are multiple examples in the record where they would claim that there was
24 agreement where there was none or vice versa.

25 Q No, I'm more interested in defense attorneys for Mr. Epstein attempting to interfere in

1 the U.S. Attorney's Office's ability work with, interview, or notify victims.

2 So this is one example of that --

3 A So --

4 Q -- where a defense attorney is telling you their read of the law, and I read it as an
5 attempt to block you from talking to victims.

6 A I --

7 Q Are there any other --

8 A I understand the question now.

9 So one of the issues that arose was, as a result of our seeking a mechanism, a way, for the
10 victims to recover money, we set up a system whereby he would concede liability and they would, in
11 essence, just argue over amounts.

12 Q Uh-huh.

13 A Defense counsel argued that the way we set it up was a conflict of interest and that we
14 couldn't proceed. And that was one of the grounds on which they appealed to Washington. And
15 my first assistant and defense counsel had a vigorous exchange over a number of weeks over that
16 topic.

17 We wanted the victims to be able to recover. And we thought, once he signed, he meant
18 what he said. And after he signed, he tried to get out of it.

19 Q Did defense counsel ever try to interfere with your ability to work with the FBI or other
20 investigators in order to gather information?

21 A Not to my knowledge. But, again, as I said before, I wouldn't typically direct the FBI
22 how to gather their information or our line attorneys how to gather information.

23 Q Understanding OPR found the breakfast was fine, I'm just wondering, like, what -- was
24 the discussion at breakfast regarding informing the victims?

25 A So, as I told OPR, I don't remember 20 years later what the discussion was. I can infer.

1 At the time, he was trying to recuse our lead prosecutor, Ms. Villafana.

2 Part of the mechanism for seeking recovery for the victims was to appoint what, for
3 simplicity's sake, we could call a "special master" --

4 Q Uh-huh.

5 A -- to follow this process. Ms. Villafana had recommended someone who was known,
6 or a friend of, or somehow associated with her boyfriend. And defense counsel claimed that she
7 had acted unethically and improperly and was looking to recuse her.

8 Based on the timing, I can see how I would want to know what their allegations are. Ms.
9 Villafana is a key part of this case. She was probably in the process of negotiating these issues,
10 negotiating the victim recovery issues, and notifying victims. And I can infer that that's what I
11 would have viewed the topic as.

12 Now, whether defense counsel brought something else or not, that -- that's up to them.

13 Q Is it common for defense counsel to seek information to cause recusal, or does it more
14 often just kind of come up in the course of practice?

15 A It's not unheard of for defense counsel to seek recusal or generate conflicts of interest.

16 In this case, I didn't think they had a basis, and I did not recuse Ms. Villafana. I thought their
17 attempt to recuse my first assistant was much more egregious.

18 Q I'm going to come back to the NPA, but want to ask just, kind of, your own thoughts and
19 if you ever had a conversation about it. Epstein obviously hired two people that could have
20 potentially created a conflict for you. Do you think he did it on purpose?

21 A I think it was clear he hired the two attorneys from Kirkland, one, because, having
22 worked with me, they would know my thinking and my style; two, they could likely get an appeal to
23 Washington, D.C. And I think -- yes, I think he did that.

24 He hired someone that had previously worked with my Criminal chief. He hired someone
25 that had been a partner with my first assistant, I believe. He hired an AUSA in our office that may

1 have been privy to hallway conversations about the case. So there is a pattern here that we were
2 all well aware of. He hired someone that had an association with the managing attorney of the
3 Palm Beach office.

4 Q And, I mean, it's one thing to hire those people because they might know how opposing
5 counsel --

6 A Right.

7 Q -- thinks, but all the facts kind of point to an attempt to subvert the case.

8 A So let me make one thing clear as you're going there. The Office of Professional
9 Responsibility at Department of Justice looked at all these contacts, they looked at everyone
10 involved, they looked at all the emails, they looked at every communication, and they found no
11 improper conduct, they found no improper influence, they found --

12 Mr. Neiman. On your behalf.

13 Mr. Acosta. On -- not only on my behalf, but on behalf of everyone in the U.S. Attorney's
14 Office.

15 Mr. Neiman. Right.

16 Mr. Acosta. No improper influence, no wrongdoing. So this is something that was fully
17 looked at, fully considered.

18 And so, you know, he hired who he hired, but we proceeded the way we wanted to proceed.
19 And the record shows that, from before these two attorneys were brought on board, where I
20 approved for 2 years the registration and the recovery mechanisms to the ultimate plea, what
21 changed was negotiations among the trial team.

22 BY MR. [REDACTED]:

23 Q And I want to be -- I'm not suggesting that you should've declared a conflict or,
24 like -- you guys were in the best position to figure that out. What I'm suggesting is that it looks like
25 it's another defense tactic in an attempt to get even closer to the line of intentionally hiring people

1 that would conflict the --

2 A A failed --

3 Q -- lead prosecutor out.

4 A A failed defense tactic, because -- so one of the Justice Department's policies on
5 recusals is that you don't just recuse, because then every defense attorney could simply recuse all
6 the good attorneys --

7 Q Uh-huh.

8 A -- and experienced attorneys in a U.S. Attorney's Office.

9 Q I'm going to introduce exhibit 3. It's two letters.

10 [Acosta Majority Exhibit No. 3

11 was marked for identification.]

12 BY MR. [REDACTED]:

13 Q While we pass that out, I'll describe them. It's two letters sent from FBI West Palm
14 Beach to -- they're redacted, but -- two victims, notifying them in regards to the Epstein case, one
15 from May 30th, 2008, and one from January 10th, 2008.

16 Have you seen these letters prior to today?

17 A I don't recall.

18 Q Okay. I'm going to focus more on the timeline and one sentence versus the whole
19 notification.

20 So, looking at the January 10th one, which the cover page is "Exhibit 97," it's the first
21 sentence in that letter, and then in the second letter it is the second full paragraph. But it reads,
22 "This case is currently under investigation. This can be a lengthy process and we request your
23 continued patience while we conduct a thorough investigation."

24 By January 10th, 2008, and May 30th, 2008, the case was no longer under investigation. Is
25 that correct?

1 A So that is not accurate.

2 Q Okay.

3 A So -- and this was looked at by the Office of Professional Responsibility by the Justice
4 Department, and again they found no wrongdoing.

5 I don't have an independent recollection, but based on the Justice Department's conclusions,
6 let me try to walk through this.

7 Q Uh-huh.

8 A He had signed a plea in September. Our expectation was, he signed -- I'm sorry. He
9 had signed the agreement in September. Our expectation was, he signed the agreement, he'd go
10 take the plea, he'd go to jail, we're done. But he did not do that.

11 And so my understanding at the time was that we did not just sit around but that the
12 prosecuting attorney and the case agent continued to work the case, because we did not know if we
13 would have to go to trial or not. And so the case was not done, because he was not in jail. And so,
14 during that time, the case, as a technical matter and an actual matter, was under investigation.

15 The prosecuting attorney and the case agent started notifying the victims of the actual
16 agreement. They then became concerned because they, in essence, were saying, here's an
17 agreement, and he goes to jail, and you'll have the opportunity to recover what for these victims
18 would've been substantial sums. And they became concerned that they were generating evidence
19 that would undermine the case. Because in the usual course, he would be pleading, but he's not.

20 Q Uh-huh.

21 A He's challenging this on appeal.

22 And so they went to the professional responsibility officer -- again, this is from OPR, not my
23 independent recollection -- and they asked the professional responsibility officer, "What should we
24 do?" And the professional responsibility officer said, in essence, "If you feel uncomfortable with
25 this, then just stop."

1 And so they proceeded, but at the same time the FBI generated these letters, which are
2 accurate, but -- but let me sort of say here, this is another area where I understand why victims felt
3 that this wasn't -- you know, I think OPR's view was -- you know, they found that we complied with
4 the rules and the law, but said it wasn't fully forthright. And I understand that.

5 And, in retrospect, we were focused, again, "send him to jail; registration," and should have
6 probably thought more about how victims would have viewed this.

7 Q All right. I appreciate that and appreciate the timeline.

8 So, just for clari- -- when these letters went out, your understanding was that there was still
9 investigation happening?

10 A So, again, I wasn't aware that the letters were going out, because U.S. attorneys don't
11 get involved in this as a typical matter, but that was my words, yes.

12 Q And then --

13 A I'm sorry -- that that was -- that would be my understanding, yes.

14 Q And then your understanding, too, is that -- so we get back to the, like, kind of, notifying
15 of the victims and that the ethics advice was, if it's going to mess up the case, it's still -- it's
16 permissive, right? So, like, you could make the determination whether or not to notify, whether or
17 not it's going to mess up the case.

18 A And, at some point, the office had the Appellate Division check either independently or
19 check with Washington on that and was told that the -- that's when they were told specifically that
20 the CVRA did not attach until indictment.

21 Q All right.

22 And we talked about the addition of the four named co-conspirators a little bit. And I know
23 that you don't get into, kind of, picking and choosing who gets interviewed, but do you recall if those
24 four women were interviewed?

25 A I do not recall. And I wouldn't have reason to recall.

1 Q The Palm Beach Police Department attempted to interview those people and were,
2 according to their report, told by Alan Dershowitz that those four women were out of the country.
3 Do you have any knowledge of that?

4 A I have no knowledge of that.

5 Q I won't ask the followup.

6 Would it be odd that the primary suspect's lawyer is the one communicating with Palm Beach
7 PD regarding four witnesses?

8 A Again, I was not involved, you know, in how the investigation proceeded.

9 Q And then, to your knowledge, again, understanding that you're not picking and choosing
10 who gets interviewed, did anyone in your office or the FBI ever interview Ms. Maxwell?

11 A To my knowledge, they did not. I recall reading somewhere in the Justice Department
12 report that I believe our lead prosecutor wasn't aware of Ms. Maxwell. I don't -- I think she at some
13 point said she didn't recognize the name. But I could be wrong. That's just a vague recollection.

14 Q And, again, I'm prefacing all this with the understanding that you're not picking and
15 choosing the -- and would have no and don't have recollection of whether or not they were
16 interviewed.

17 It seems odd and verging on not a fulsome investigation to enter into this level of agreement
18 without interviewing these types of people. Do you agree?

19 A So, again, I don't know. I was not involved in how the investigation proceeded. We
20 have very, very good prosecutors in the Southern District of Florida, and my approach would've been
21 to trust them to proceed as they saw appropriate.

22 Q And so, with that trust, when they proposed a non-prosecution agreement, it was your
23 belief that they had checked all the, kind of, investigatory boxes to make sure that this was the best
24 path forward?

25 A That would be my belief and expectation in this and other cases.

1 Q All right.

2 I want to go back to the agreement itself. I just have some, kind of, like,
3 four-corners-of-the-agreement-type questions. And if it's, A, you don't recall your thoughts at the
4 time, that's fine. If you have an opinion about it now, that's fine too.

5 A All right.

6 Q On page 1, the first, kind of, stipulation is that -- I'm sorry.

7 So most of the document refers to "minor females." And did you find any evidence of
8 Mr. Epstein trafficking non-minor females?

9 A Not to my recollection.

10 Q And then what would, kind of, like, constitute a breach of this agreement on
11 Mr. Epstein's side?

12 A Well, it requires him to take certain steps on page 3. You know, it outlines one, two,
13 three, four, and so on. You know, ultimately, if he didn't plead, if he didn't serve the term as
14 outlined in the agreement, or if he didn't take any of the other steps, it would be a breach.

15 Q And then the actual, kind of, like, agreement of what the jail confinement would look
16 like, what work release would look like, what parole or home confinement would look like was all out
17 of your hands?

18 A So one of the issues -- look, we never expected that -- we handed this to the State
19 attorney and the Palm Beach County. They had no jail time, and we gave him jail time. We never
20 expected them to do anything less than say, "Outstanding, great" and have him serve his time.

21 Particularly when, if you look into the details of the work release, the way he obtained that
22 work release is troubling at best. And I think that was outlined in a letter from our office.

23 Q And we'll get to some of that a little bit later.

24 Just, to your recollection, would it be common in a parole agreement or a home-confinement
25 agreement to require that the convicted individual not commit any other crimes while on home

1 confinement or parole?

2 A So I would think so, and I'd think that'd be part of the State's management of their
3 prisoners.

4 Q But, again, not up to the U.S. --

5 A Again, not up to the U.S. attorney.

6 Q Right.

7 A He is within the State system.

8 Q If he were to breach parole, would that be a breach of the NPA?

9 A I would have to read the NPA --

10 Q Okay.

11 A -- in a lot more detail before I gave an opinion on that.

12 Q Did Ms. Villafana ever approach you with evidence that Mr. Epstein was violating the
13 NPA?

14 A There were certainly discussions within the office as to how to proceed on work release,
15 but I don't think that was viewed as evidence. I think that was viewed as -- to be honest, I think it
16 was viewed as the office was hoodwinked.

1
2 [1:16 p.m.]

3 BY MR. [REDACTED]:

4 Q Hoodwinked by whom?

5 A The State attorney, in part, or the State -- let me not -- because the State attorney
6 would say the Palm Beach sheriff.

7 It was not what we expected. We expected, quote/unquote, continuous confinement. We
8 were given an assurance of continuous confinement. Whichever system in the Palm Beach
9 correctional hierarchy chose to give this to him is not what we expected, and we made it pretty clear
10 that we didn't think it was appropriate.

11 Q You said earlier, a lot earlier at this point, that the State was an unfair partner. You
12 might have said a different word, but --

13 A I think an unreliable partner is what I said.

14 Q Unreliable partner. Is this part of the evidence that supports that statement?

15 A Yes, it is.

16 Q Do you have any other support for them being an unfair partner?

17 A So one of the issues in this case was I believe we got notified on a Friday afternoon that
18 he was taking his plea Monday morning. I would expect that a law enforcement partner would give
19 us at least a business day, and I'm being sarcastic here, on a plea of this nature. And so our
20 attorneys were left to scramble and work with the Palm Beach State Attorney's Office and Victim
21 Notification on very, very short notice, and I think that led to some of the feelings of lack of
22 forthrightness on the part of the victims.

23 Q You had discussed some of the -- you know, I'm paraphrasing -- the shadiness of his
24 work release detail and where he was working. Does the Florida Science Foundation ring a bell as
25 his work release?

1 A It does.

2 Q And sitting here today, what's your understanding of the Florida Science Foundation?

3 A When I was referencing shady, I think I used "troublesome", because I tend to -- just for
4 the record, I tend -- I believe in being professional and opting over the combative, and I sometimes
5 understate. I've been told that that's a bad habit. So "shady" might be a better term. I believe
6 that that's part of what I considered shady.

7 Q And I'm going to maybe jump a little bit out. And we'll introduce both of these
8 documents together as exhibit 4.

9 [Acosta Majority Exhibit No. 4
10 was marked for identification.]

11 BY MR. [REDACTED]:

12 Q While they're being passed out, so it's the Articles of Incorporation For Bruce Reinhart,
13 P.A., his law firm, and the Articles of Incorporation for the Florida Science Foundation.

14 Was Bruce Reinhart an employee in the U.S. Attorney's Office while you were there?

15 A So you've just disclosed something that I did not know.

16 Q Okay.

17 A Bruce Reinhat was an employee. He was an AUSA that worked in the Palm Beach
18 office during this [inaudible]. I knew that he had left to work for Epstein while this case was
19 pending. I did not know that he is the one that filed these articles of incorporation.

20 Q So that gets to some of my questions. Was he directly involved in the Epstein
21 investigation while at the U.S. Attorney's Office?

22 A So I would not have knowledge as to whether he was directly involved. He was not
23 part of the core team, but within any office, as might be the case in any congressional office or
24 others, there is sometimes hallway discussions, sometimes --

25 Q Hear things, you chat with colleagues near the water cooler, that kind of thing.

1 A And the Palm Beach office is much smaller than the Miami office. And so I can't speak
2 to what he did or did not know.

3 Q And it's my understanding he left -- officially left the U.S. Attorney's Office in January of
4 2008. Is that your understanding now?

5 A I don't recall, but I know he left, and I know he left at some point while the case was
6 pending appeal.

7 Q All right. We'll flip to his incorporation paperwork. You have it. Up in the top right
8 corner of the first page it says filed October 23rd, 2007. That's 3-ish months prior to him officially
9 leaving the U.S. Attorney's Office.

10 To the best of your recollection and knowledge, is it ethically questionable to begin private
11 practice while still in the U.S. Attorney's Office?

12 A Yes.

13 Q Is it actually unethical to do so?

14 A Yes.

15 Q Did you have knowledge of this at the time?

16 A No. So -- I'm sorry. To clarify, he filed this under Bruce Reinhart, P.A., before he left
17 the U.S. Attorney's Office?

18 Q Yes, sir. He filed it October 23rd, 2007. We pulled this right off the Florida
19 corporation website. And then it's our understanding that his last day in the U.S. Attorney's Office
20 was January 1st, 2008.

21 We're going to flip to the next one, the one with the big Sharpie writing on it. The first page
22 on this one is not as interesting, but the second page is the beginning of the Articles of Incorporation
23 for the Florida Science Foundation. And this was incorporated, the stamp says, November 1st,
24 2007, so about a week after Mr. Reinhart's incorporation?

25 A Yes.

1 Q And I want to compare the second page of the Florida Science Foundation to the first
2 page of Mr. Reinhart.

3 Article II for Mr. Reinhart says the principal place of business is 250 Australian Avenue, Suite
4 1400, in West Palm Beach, Florida. And Article II for the Florida Science Foundation says 250
5 Australian Avenue, Suite 1400, West Palm Beach, Florida.

6 On its face, looking at this, does it appear that Mr. Reinhart and the Florida Science
7 Foundation, which was a front for Mr. Epstein, shared the same office?

8 A On its face, it does, yes.

9 Q Would that be of concern to you that --

10 A Yes.

11 Q And then, again, it is our understanding that Mr. Reinhart's first clients were
12 Mr. Epstein's maid, Sarah Kellen, and Mr. Epstein's pilots. Would that be unethical to shift straight
13 from a U.S. Attorney's Office working on that case to then taking them as defense clients?

14 A So I recall the office was troubled by Mr. Reinhart leaving and shifting to Epstein-related
15 clients. I don't know what conversations he had with what ethics officials, but shady.

16 Q Do you recall any conversations about Mr. Reinhart taking Epstein clients at the time?

17 A I recall some conversations at some point. I don't know what that time period would
18 be.

19 Q I'm going to not ask you to speculate, but it would certainly appear like there was some
20 coordination here, Mr. Reinhart's articles of incorporation being at the same address a week before
21 the Florida Science Foundation's incorporation and then him taking their clients.

22 We've talked a lot about --

23 A What is most troubling is that this was before he left the office.

24 Q We've talked a lot about Mr. Epstein's defense counsel attempting to find conflicts of
25 interest in your office. Is this a conflict of interest for -- not in your office, but is Mr. Reinhart taking

1 Epstein clients a conflict of interest?

2 A So as a technical matter, whether it is a conflict would have to do if he was involved in
3 the case. As an ethical matter, as a professional matter, all of us thought that it was deploring.

4 Q All right. Thank you.

5 Mr. [REDACTED]. We can go off the record.

6 [Recess.]

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1 [2:06 p.m.]

2 BY MR. [REDACTED]:

3 Q Good afternoon, Mr. Acosta. I'd just like to turn back to the Federal investigation in
4 your office and make sure we have a complete understanding of the players. And to begin with, the
5 members of the U.S. Attorney's Office team who handled this case, we've spoken about
6 Ms. Villafana --

7 A Yes.

8 Q -- the line prosecutor. I understand that Jeffrey Sloman was also part of the team?

9 A He was.

10 Q Okay. And he was the chief of the Criminal Division from 2004 to 2006, and first
11 assistant U.S. attorney in your office from October 2006.

12 A I can't vouch for the dates, but that generally sounds correct.

13 Q And then Matthew Menchel?

14 A Menchel.

15 Q Menchel.

16 Andrew Lourie?

17 A Correct.

18 Q I'm pronouncing it correctly?

19 A Yes, Lourie. He was managing attorney for the Palm Beach office and then went on to
20 be the chief of staff for the Criminal Division.

21 Q Anyone else I haven't named who belongs on this list?

22 A I think that would be the core team. Other individuals may have been consulted from
23 time to time, but I think that'd be the core team.

24 Q What about the FBI agents on the case? Do you recall any of their names?

25 A I do not.

1 Q Did you ever interact with them during the investigation?

2 A I believe they were in one or two meetings, but as a general matter, I would not interact
3 with them. I may -- not I may. I did interact from time to time with the special agent in charge.

4 Q Do you recall that person's name?

5 A John. I forget his last name. I'm sorry.

6 Q And then Mr. Epstein's legal team.

7 A Yes.

8 Q And it's a fairly fulsome list, at least to my understanding. First name is Roy Black.

9 Do you recall Mr. Black?

10 A Yes.

11 Q Did you know him at the time the investigation started?

12 A I did.

13 Q And how?

14 A He had litigated other cases in the office. He was well known. I had met him socially.
15 Miami's a smaller legal community than Washington. You get to know attorneys. I also thought it
16 was important and I did -- you know, I met with well-known defense attorneys from time to time just
17 to see their assessment of how the office was proceeding.

18 Q Did you have a social relationship with Mr. Black?

19 A I don't think so.

20 Q Gerald Lefcourt?

21 A I knew the name. I did not know him much beyond that.

22 Q Guy Lewis?

23 A So Guy Lewis, if the question is who he was -- I assume that's your question?

24 Q So I understand that he was the former U.S. attorney and your predecessor in the
25 Southern District of Florida. Is that right?

1 A I thought that he was the predecessor one before me.

2 Q Okay. So you've answered the first question.

3 The second is whether you knew him at the time the investigation started.

4 A I knew him. I think he had served in Main Justice for some period of time. We had
5 interactions from time to time.

6 Q It's also my understanding that Mr. Lewis was close friends with Mr. Lourie in your office
7 at the time. Is that right?

8 A I will accept your understanding. I don't have independent recollection.

9 Q Lilly Anne Sanchez?

10 A So she was in our office when I started in the office. She later left for private practice.

11 Q And represented Mr. Epstein?

12 A And represented Mr. Epstein.

13 Q And that was immediately after she left the office, if I'm correct?

14 A I can't speak to the timeline.

15 Q And she had been Mr. -- I'm sorry. Menchel?

16 A Menchel.

17 Q -- Mr. Menchel's deputy at the office before she left. Is that right?

18 A That is correct.

19 Q And I understand that she also dated him for a period of time?

20 A During the Office of Professional Responsibility investigation, it came out that they had
21 dated previously.

22 Q Jay Lefkowitz we've spoken about. If I understood your testimony earlier, you knew
23 Mr. Lefkowitz from your time at Kirkland as an associate. Is that correct?

24 A Correct, in the mid-nineties, I believe.

25 Q And please tell me if I'm mischaracterizing, but I understood you to say that you may

1 have had an assignment from Mr. Lefkowitz when you were in --

2 A It was more than 20 years ago. I did not -- I don't recall working with him on
3 something, but that doesn't mean that in the course of being a young associate you don't get an
4 assignment from a partner.

5 Q Did you have any contact with Mr. Lefkowitz between the time you left Kirkland and the
6 inception of the Epstein investigation?

7 A So he was in the Bush administration in a White House role, and from time to time we
8 may have come into contact. I don't recall what White House role he was in.

9 Q I understand that he was the former general counsel of OMB under President George
10 W. Bush. Is that consistent with your understanding?

11 A Again, I remember a White House role. If you've looked him up, you have more
12 information at this point than I do.

13 Q Ken Starr, also at Kirkland. I believe you said that you also knew Mr. Starr from
14 Kirkland. Is that right?

15 A So I did work with a case. It was a Supreme Court -- wasn't a certiori. It was a full
16 Supreme Court matter, and I did work with him on that. I was the junior associate on the team.

17 Q And Mr. Starr, of course, is the former Clinton Whitewater special prosecutor, and that
18 was prior to your tenure at Kirkland, if my chronology is correct.

19 Again, did you have any contact with Mr. Starr between the time you left Kirkland and the
20 inception of the Epstein investigation?

21 A If I could go back, I'm not sure your chronology is correct, because I remember that
22 Mr. Starr was out of the office quite a bit while I was at Kirkland working on some matters. So if it
23 wasn't that matter, it would have been another similar non-Kirkland special assignment matter.

24 Q Okay.

25 A And I think your second question was did I have contact with him. Again, he's a

1 well-known Washington figure. I'm sure I would have come into contact with him at some event at
2 some point.

3 Q We spoke about Alan Dershowitz.

4 Jack Goldberger?

5 A Yes.

6 Q Do you know Mr. Goldberger?

7 A Not to my recollection.

8 Q Are you aware that he represented Jeffrey Epstein?

9 A I am. Not based on independent recollection, but I've obviously reviewed material.

10 Q It's my understanding that Mr. Goldberg's law partner at the time of the State's
11 investigation into Mr. Epstein was married to the assistant State attorney who was handling the
12 Epstein case, and that once Mr. Epstein retained Mr. Goldberger, that assistant State attorney was
13 removed from the case on the basis of a conflict of interest.

14 Did you become aware of that?

15 A I have read that. I don't recall if I became aware of that 20 years ago.

16 Q Next name, Martin Weinberg. Do you know Mr. Weinberg?

17 A Again, I don't know him, but I recognize the name.

18 Q Do you recognize him as one of Mr. Epstein's attorneys?

19 A I will accept your assertion.

20 Q Getting close to the end of this list, but the next name is Joe Whitley, W-h-i-t-l-e-y.

21 A Yes.

22 Q Do you know Mr. Whitley?

23 A I do. He was, I believe, the U.S. attorney for Northern District of Georgia, I believe, and
24 was in private practice by this time.

25 Q It's my understanding that he also served as Acting U.S. Associate Attorney General

1 under President George H.W. Bush. Is that consistent with your understanding?

2 A I don't remember.

3 Q And it's also my understanding that Mr. Whitley joined the legal team after the NPA was
4 signed. Is that right?

5 A I will accept your assertion.

6 Q And finally, I don't have a name, but I noted that the OPR report notes that the former
7 principal deputy chief of the Child Exploitation and Obscenity Section, or CEOS as you've been
8 referring to it, joined the defense team also after the NPA was signed. Were you aware of that?

9 A I don't recall being aware of that, but I've read that in the report.

10 Q Do you know who that individual is?

11 A I do not.

12 Q So that's obviously a somewhat substantial list.

13 A I believe I called it an army.

14 Q An army seems apt. It's typical for there to be, you know, movement between DOJ
15 and private legal practice, sort of the prominence of these individuals, as well as the closeness of
16 their relationships with certain people in your office, both personally and in terms of the closeness in
17 time to their tenures in your office, from my standpoint, seems somewhat exceptional. Did you
18 ever have any concerns about that?

19 A At the time, we were -- there was clearly a bit of a pattern here, right, and everyone,
20 from my perspective, talked to ethics folks. Everything was disclosed, to my understanding at that
21 time, and something that we had to be very careful about, because on top of that, there were
22 instances where he attempted to recuse our prosecutors.

23 A defendant doesn't get to recuse prosecutors simply by hiring people that are associated
24 with them or else the criminal justice system breaks down, because wealthy people can just hire
25 armies and get rid of the most experienced prosecutors.

1 And so, yes, we were aware of it. We, I believe, managed it. We acted entirely
2 appropriately. The Office of Professional Responsibility reviewed all that, and they found no
3 impropriety. They found no improper influence. They found that everyone acted as they should
4 have.

5 Q But to be more specific about the concerns, so you mentioned the prospect of
6 necessitating recusal.

7 A Yes.

8 Q Is that the inquiry that the ethics office engaged in that you just described?

9 A No. The ethics office engaged in a full review of everyone's relationships with prior
10 attorneys, and they went person by person in this OPR report and found that there was no
11 impropriety, no improper influence, and no favoritism.

12 Q Where in the OPR report does it conclude that?

13 A I believe there's an entire discussion beginning of page 140. Beginning on page 140,
14 proceeding through, looks like, page 169.

15 Q So that section speaks to the motivations of the attorneys in your office in negotiating
16 the NPA, if I understand it correctly. I think I'm asking more specifically about concerns about the
17 closeness of the ties between Mr. Epstein's attorneys and their ability to potentially influence staff in
18 your office, whether it's the NPA itself or meetings or just access in general. Was that a concern
19 that was ever raised?

20 A I believe all of us were aware and had discussions with the ethics counsel, and it was
21 known by the office. And, you know, all of us proceeded in the way that we thought was correct
22 and professional.

23 Q Do you remember specific conversations with the ethics counsel?

24 A I believe the Office of Professional Responsibility talks about how various individuals
25 consulted with them. In my case, it was publicly known that I had worked at Kirkland, and there

1 was no concern at the time, and there was no concern found by the Office of Professional
2 Responsibility.

3 Q I understand that in December of 2008 you recused yourself from the Epstein
4 investigation.

5 A I did.

6 Q Is that right?

7 And that was at a time when you were engaged in discussions with Kirkland about returning
8 there as an attorney. Is that right?

9 A I was not engaged in discussions with Kirkland about returning as an attorney.

10 Q Okay.

11 A This was after he had gone to jail and after he had pled. The election had just taken
12 place. I was considering whether to apply to private practice, whether at Kirkland or any other law
13 firm. I had a general conversation at the time with Mr. Lefkowitz about what private practice was
14 like. I hadn't practiced since the mid-nineties, and I thought it best to have -- and I also had a
15 general conversation with several other folks in Miami about private practice.

16 I thought it best to recuse because it's at the same time that our office started objecting to
17 the Palm Beach sheriff's decision to put him on work release. Given the number of attorneys that
18 he had on the case, I did not think it made sense to enter a job market when I was in charge of this
19 case, and so I recused myself.

20 Q So if I can unpack that a bit, at what point in time did you begin to consider returning to
21 private practice?

22 A Most likely after the election. Before the election, I had been looking into and ended
23 up rejecting private practice and going into the legal academy. I considered applying to my old law
24 school for a practitioner position for a period of time.

25 At the time, I believe I had a conversation with our ethics counsel about whether I had to

1 recuse because Mr. Dershowitz was one of his defense attorneys. Either he decided or he
2 consulted with the Department and decided I did not have to recuse because Mr. Dershowitz would
3 not be involved in my being hired, whether at the Kennedy School or at the law school.

4 I believe I also applied right around that time to the University of Miami and then ultimately
5 went to FIU.

6 Q When did you have your conversation with Mr. Lefkowitz?

7 A Sometime around Thanksgiving.

8 Q Thanksgiving of?

9 A Of '08, post-election.

10 Q And was this an in-person conversation, over the phone?

11 A It was in person.

12 Q It was in person. Where?

13 A It was over dinner. I don't recall.

14 Q What did you discuss, to the extent you recall?

15 A So it was 20 years ago. What I can infer was on my mind is how does one transition
16 from being a government lawyer for 8 years into private practice, he having been a government
17 lawyer and then having returned to private practice, and what private practice is like.

18 But, again, it was 20 years ago. And to be clear, I did not seek a position, I did not apply for a
19 position. And I ultimately determined not to pursue private practice.

20 Q Thanksgiving of '08 is roughly, by my calculation, 5 months after Mr. Epstein entered his
21 plea. Did you discuss Mr. Epstein with Mr. Lefkowitz at all?

22 A Not to my recollection, and there's no reason because it was far after the plea.

23 Q Thank you.

24 I'm going to now shift back to the conduct of your office's investigation of Mr. Epstein.

25 A Yes.

1 Q And just as an initial matter, when you first became aware of the investigation, did you
2 perceive that there was a Federal interest in investigating Mr. Epstein?

3 A So it was 20 years ago. I honestly perceived that there was an interest in having him
4 go to jail. And I think my initial reaction would have been where is the Federal interest, but how
5 can we get him to go to jail, because it was brought up in the context of look at what the State's
6 doing.

7 But I would say that, yes, there is a Federal interest. And I felt, as an ethical matter -- if the
8 question is as an ethical matter did I feel comfortable bringing a case, I believe there's a sufficient
9 Federal nexus to bring a case, with the caveat of all the issues we've already discussed.

10 Ms. Stansbury. Can I follow up on that just very quickly?

11 Mr. [REDACTED]. Yes.

12 Ms. Stansbury. Given what you just said about there being a significant Federal interest to
13 bring a case and an interest in his potential prosecution, you know, you said in the first hour that we
14 talked to you that you felt -- or it was on the recommendation or you said your team said that some
15 of the witnesses may have lacked credibility. Is that -- is that --

16 Mr. Acosta. So --

17 Ms. Stansbury. Let me finish my question very quickly. Let me just say, if you felt there
18 was a Federal interest in this case and the evidence was pointing in the direction of a potential
19 prosecution, why did you not pursue additional witnesses, additional evidence, and potentially,
20 instead of giving a non-prosecution agreement to co-conspirators, actually questioning them and
21 collecting further evidence and their cooperation to prosecute him?

22 Mr. Acosta. So let me unpack that, if I could, and let me start off with the word "credibility",
23 because I've heard that some of my comments have been mischaracterized to say that I thought the
24 witnesses lacked credibility.

25 I believe what I had said, and if that's not what I said, then, you know, I want to correct the

1 record. I believe what I said was that I and every prosecutor in our office believed that what
2 happened happened and believed the witnesses but that we also understood that defense would
3 have withering impeachment, and at the end of -- and that some of them didn't want to talk or
4 wouldn't talk to us. And at the end of the day, that affected the viability of a Federal case. It
5 affected what the outcome would have been.

6 Ms. Stansbury. So why did you not pursue other witnesses or cooperation with
7 co-conspirators?

8 Mr. Acosta. And so the office opened the file I believe sometime around May 2006, it could
9 have been June 2006, and investigated it for an entire year. The prosecuting attorney, the case
10 agents pursued leads as they saw fit, investigated as they saw fit, spoke with individuals as they saw
11 fit, do what they're trained -- did what they're trained to do, which is to pursue the case.

12 At some point as they're doing the investigation, they felt that it was time to move to the next
13 stage, which is to proceed to bring charges so he can go to jail. And it is at that point that the case
14 came up to our office, to my personal office for discussions about how to resolve it.

15 And so I think to say that we did not pursue is mischaracterizing what took place.

16 Ms. Stansbury. I'm asking after it was elevated to your office for a decision about whether
17 or not to proceed with a prosecution, if you -- well, let me ask this. This is just a yes or no question.
18 Did you personally come to the conclusion that there was not sufficient evidence to prosecute?
19 Just a yes or no.

20 Mr. Acosta. So I can't answer that yes or no, with respect, because it's not a is there
21 sufficient evidence to prosecute. If there is not sufficient evidence to prosecute, then, as an ethical
22 matter, if you don't think there's sufficient evidence, you cannot go forward. It's a continuum --

23 Ms. Stansbury. But you could have -- you could have decided at that point the case was not
24 ready, we should collect additional evidence, statements, and cooperation, correct?

25 Mr. Acosta. In theory, despite the fact that my career experts in the field were saying the

1 case is ready, I could have said, no, I don't think the case is ready, we should collect additional. Or
2 they could have said, you know, given --

3 Ms. Stansbury. So just pausing it right there. So you could have said, yes, let's -- the case is
4 not ready, let's not proceed yet, but, instead, you decided to pursue a non-prosecution agreement.

5 Mr. Acosta. So, again, I think this is mischaracterizing the process. The career attorneys
6 had decided the case was ready to proceed --

7 Ms. Stansbury. And which of the career attorneys?

8 Mr. Acosta. In this case, I suspect that would be Ms. Villafana. Because I don't -- as a
9 general course, I don't get involved in how evidence is gathered. I believe that would have been
10 Ms. Villafana, the supervising attorney, in consultation with the Palm Beach managing attorney, and
11 perhaps the Criminal chief.

12 Ms. Stansbury. So Andrew Lourie and Matt Menchel and then Jeff Sloman. Is that correct?
13 Those were the supervisors?

14 Mr. Acosta. Yeah. I doubt this would have gotten to Jeff Sloman's level. At some point,
15 when they thought that the case was ready to go forward, then we would have had a discussion
16 about resolutions.

17 And I will own the resolution. I will readily admit that I approved the term sheet. But
18 when that was approved, it came up in the context of a case that was ready to go. It did not come
19 up in the context of we need additional time. If anything, there was an interest on the part of the
20 prosecuting attorney to move the case more quickly.

21 Ms. Stansbury. Okay. So let's follow up very quickly there. So you, you know, in
22 communications with your office, it was discussed that you had prosecutorial discretion about
23 whether or not to move forward with this case, and you chose instead -- that was your decision -- to
24 move to a non-prosecution agreement, correct?

25 Mr. Acosta. I approved the negotiation of the non-prosecution agreement.

1 Ms. Stansbury. And so can you tell me, was there anyone in the chain of command between
2 Maria Villafana and you who recommended it not be prosecuted or that you move to
3 non-prosecution?

4 Mr. Acosta. I don't recommend -- I don't recall anyone that recommended that we not
5 proceed with the case. There was --

6 Ms. Stansbury. So everyone in the chain of command from the line prosecutor up to you
7 was recommending prosecuting?

8 Mr. Acosta. No. If I could. Your question was proceed with the case. In proceeding --

9 Ms. Stansbury. Well, let me ask the question I'm asking, not the one you want to answer.
10 The question I'm asking is, is there anyone in the chain of command between the line prosecutor,
11 Villafana, and you when the recommendation came up who recommended to you to pursue a
12 non-prosecution agreement?

13 Mr. Acosta. So this was 20 years ago. Everyone in the chain of command was
14 recommending that we proceed with the negotiated resolution. There was a discussion about
15 whether that should be --

16 Ms. Stansbury. I don't think that's correct, right, because we know that the line prosecutor
17 provided a memo and an indictment. So you're saying every single person in the chain of command
18 from the line prosecutor to you was recommending that you not prosecute?

19 Mr. Acosta. No, that's not -- so what I said --

20 Ms. Stansbury. Let me have an affirmative statement.

21 Mr. Acosta. Right. So what I said -- and I don't have the declaration in front of me. I wish
22 I did.

23 Ms. Stansbury. Let me ask the question a different way, because I don't want to parse
24 words.

25 You said that you had a discussion with your senior team, and as I understand it, based on the

1 documentation, there was Maria Villafana, she had two field supervisors, then Jeff Sloman, and then
2 you. You signed off on proceeding with the non-prosecution agreement.

3 So going back to what you stated earlier today, I'm trying to understand, what informed your
4 thinking when you decided to proceed with a non-prosecution agreement rather than telling the field
5 prosecutors to continue to pursue the evidence and build a stronger case?

6 Mr. Acosta. Okay. So Ms. Villafana, the line prosecutor, the prosecuting attorney, in
7 sworn statements said the following --

8 Ms. Stansbury. No. I'm asking about your own thought process.

9 Mr. Acosta. But I'm trying to answer your question, if I could.

10 "Some have alleged that Epstein would easily have been convicted and all the victims were
11 eager to participate in a full-fledged Federal prosecution. As the prosecutor who handled the
12 investigation, I can say that these contentions overlook the facts that existed at the time."

13 She then goes on to say that she favored a negotiated resolution, that she thought it was in
14 the interests of the victims and the office, and it was her understanding that the office as a whole
15 favored a negotiated resolution.

16 Ms. Stansbury. Did you read her memo and indictment?

17 Mr. Acosta. And if you --

18 Ms. Stansbury. And do you have copies of those documents?

19 Mr. Acosta. And if I can finish my sentence.

20 Ms. Stansbury. But can you answer that question?

21 Mr. Acosta. Can I please finish my sentence, then I'll answer your question?

22 Ms. Stansbury. Can you answer that question, please?

23 Mr. Acosta. And if you go to the OPR report, the managing attorney of the Palm Beach
24 office favored a negotiated resolution. The Criminal chief favored a negotiated resolution. The
25 first assistant favored a negotiated resolution.

1 Ms. Stansbury. We're asking about people that were in your chain of command.

2 Mr. Acosta. These were all in my chain of command. They were my supervisory staff.

3 And so the entire chain favored a negotiated resolution.

4 Ms. Stansbury. Was that before or after you made the decision to proceed to a
5 non-prosecution?

6 Mr. Acosta. That was before.

7 Ms. Stansbury. Okay. Have you read Ms. Villafana's memo and indictment?

8 Mr. Acosta. So that was 20 years ago. I don't recall if I read it or not.

9 Ms. Stansbury. You don't know if your own line -- you made a decision on a case about
10 nonprosecuting a high-profile case without reading the memo of the line prosecutor?

11 Mr. Acosta. So let me answer fully because I was cut off. It was 20 years ago. I don't
12 remember any document that I read 20 years ago. It was a long time ago.

13 What I do know is that there were fulsome discussions, that we would have talked about this.
14 I may have read it. I may have sat around the table and said let's go over the document, and you
15 flip through it. We may have had conversations among senior staff about it.

16 You know, this is no different than legislation where sometimes it's read. Sometimes you
17 rely on your staff for summaries, and you empower your staff to do it correctly, which I did. I
18 ultimately --

19 Ms. Stansbury. Can I ask one quick follow-up question?

20 Mr. Acosta. Yes.

21 Ms. Stansbury. Is that memo and draft indictment in the files at DOJ for this case?

22 Mr. Acosta. I don't know if it's in the files. I would presume it's in the files, but that's a
23 question for the Department of Justice.

24 Ms. Stansbury. But it would be reasonable to presume that it's in the files, the DOJ files?

25 Mr. Acosta. I have no reason to think otherwise.

1 Ms. Stansbury. And then my second question, just going back. I think we're really trying to
2 understand the motivation to pursue non-prosecution. Can you lay out to us very clearly and
3 simply what evidence and your own thought process that led you to decide, rather than continuing to
4 prosecute the case, you decided to move to a non-prosecution agreement?

5 Mr. Acosta. So I think part of maybe the difficulty here is terminology, because the
6 non-prosecution agreement was not prosecution. The non-prosecution agreement was
7 backstopping the State to obtain a guilty plea through the State system. And so --

8 Ms. Stansbury. But you -- well, actually, yeah, that is a terminology thing. You chose not
9 to pursue a Federal case. That's non-prosecution of a Federal case. So I understand where you're
10 headed with that line.

11 But let's go back to -- I want to hear your line of thinking as the U.S. attorney as to why you
12 decided not to pursue a Federal case based on the evidence.

13 Mr. Acosta. Okay. So if you will indulge me and allow me to finish the question, I think I
14 understand what you're asking. I will try to answer the question.

15 This case came to the U.S. Attorney's Office on referral from the Palm Beach Police, which is
16 unusual. Usually we get our cases from the FBI. It came from the Palm Beach Police because the
17 Palm Beach State attorney -- they wanted the Palm Beach State attorney to bring charges, and they
18 wanted the Palm Beach State attorney to bring three charges that would have resulted in what I
19 understood at the time to be about 2-years imprisonment.

20 The Palm Beach State attorney initially then offered -- they said, we've looked at the
21 evidence. We don't feel comfortable with the evidence. We don't think the case is viable. And
22 they offered a resolution of probation.

23 My understanding is that Epstein rejected the State attorney's probation resolution, at which
24 point the State attorney, even though they could have indicted, took it to a grand jury and asked the
25 grand jury to decide how to proceed. And the grand jury took a look from the highest to the lowest

1 charge, and they took a look at this, and the grand jury returned a charge that would have allowed
2 for pre-trial diversion. And that's how the case first came to us.

3 In that context, the first assistant at some point early on in 2006 asked the then-prosecuting
4 attorney to start what's called a Petite waiver. A Petite waiver is a case that allows for double
5 prosecution. If a State prosecution is so manifestly unjust, then the Federal Government can
6 prosecute it as well. And so it came into our office in the context of a State case where we might be
7 doing a double prosecution.

8 So fast-forward 1 year, give or take. The case is investigated further by our office, and it's
9 time to proceed to resolution, and there are two paths on which we can proceed. One would be a
10 Federal resolution, and the Federal resolution that was most talked about was a 371. And the other
11 path, which would be about -- which would be capped at much less than the guideline range, that
12 would also have been a negotiated plea. And the other path is the State resolution.

13 Everyone in the office felt that a negotiated outcome was the best choice. Everyone --

14 Ms. Stansbury. Did they all feel that a non-Federal prosecution was the correct --

15 Mr. Acosta. If you'll allow me to answer. I'm trying to answer.

16 Ms. Stansbury. I'm going to come back to it, but I want you to finish this story. But just to
17 pin right in this moment, was the --

18 Mr. Acosta. Right. I'm going to where you'd like to go, if you'll just let me finish.

19 Ms. Stansbury. Okay.

20 Mr. Acosta. Everyone in the office felt a negotiated resolution was the best outcome.

21 Ms. Stansbury. Under State charges?

22 Mr. Acosta. A negotiated resolution was the best --

23 Ms. Stansbury. I just want an answer to that question.

24 Mr. Acosta. -- was the best outcome.

25 Ms. Stansbury. Did they agree State versus Federal in your office?

1 Mr. Acosta. On the continuum of State versus Federal, I believe the line attorney probably
2 had concerns about proceeding State. I think the supervisory attorneys were in between and did
3 not feel strongly one way or the other. I think a fair way to characterize that was that the Federal
4 versus State was more my concern than their concern, although they also felt comfortable
5 proceeding with the non -- with the State charges. And at no point do I recall a supervisory
6 attorney saying we should not do this.

7 Ms. Stansbury. But the ultimate call to not proceed federally was yours?

8 Mr. Acosta. The ultimate call was mine, as I've said -- as I've said previously. It was my
9 decision. I'm not --

10 Ms. Stansbury. And why? That's what we're trying to understand. I want to know the
11 why.

12 Mr. Acosta. Well, the why is it had come up as a State case, and from the evidentiary --

13 Ms. Stansbury. No. What's your thought process? Like, why were you like, okay, we've
14 got 40 witness statements, a child sex abuse -- these are Federal crimes. Why were you like, no,
15 we're going to just send it back to the State, who we didn't think was going to handle it competently
16 to begin with?

17 Mr. Garcia. And then I have a question. As soon as she's done with that one, I have a
18 question.

19 Ms. Stansbury. This is the part that I don't quite understand. Like, even in your timeline
20 just there you were saying that part of why the Feds got involved is because there was a feeling that
21 the States weren't going to fully prosecute the case. It's also child sex trafficking, a Federal crime.
22 Why did you -- what was going on in your head that you decided not to pursue the Federal?

23 Mr. Acosta. So you've labeled it as child sex trafficking, and one of the discussions we've
24 had today has to do with the Federal nexus and fulsome conversations that we had within the office
25 because we didn't have any evidence that there was travel.

1 Ms. Stansbury. That there was what?

2 Mr. Acosta. Travel. We did not have evidence that Epstein traveled across State lines with
3 any of the victims.

4 Ms. Stansbury. What about the witness statements that they had been flown on his jet to
5 his private island? That is evidence of travel across State lines.

6 Mr. Acosta. So to my recollection, we did not have evidence of travel. And the reason that
7 I am willing -- the reason that I say that is not based on independent recollection but based on the
8 fact that the OPR report, which talks about contemporaneous discussions in the office and interviews
9 with the various attorneys in the office, has a long discussion about the viability of bringing a Federal
10 case based not on transporting victims but on Mr. Epstein traveling on his own to south Florida and
11 whether or not -- and whether or not the purpose of travel was a purpose -- predominant purpose.

12 For example, on page I think 34 --

13 Ms. Stansbury. Okay. I understand the point you're trying to make about travel, but let
14 me go back to the thought process.

15 Mr. Acosta. But can I answer your question fully?

16 Ms. Stansbury. But I think where I'm coming at here is, like, the evidence and witness
17 statements were very clearly pointing in the direction of abuse of minors.

18 Mr. Acosta. Yes.

19 Ms. Stansbury. Yes. And it was the overwhelming consensus of the line prosecutor to
20 pursue a Federal prosecution. You just stated a little while ago that it was viewed that the State
21 might not fully prosecute the case or hold him accountable, that he should be incarcerated.

22 So why did you not say, okay, this guy has been involved in abusing minors. We have the
23 statements. We know this is happening. Why did you not proceed with the case?

24 Mr. Acosta. So two points --

25 Mr. Garcia. And then after this question, I have a question.

1 Ms. Stansbury. Yeah.

2 Mr. Acosta. So two points. First, you know, we thought that the State would be -- from
3 our perspective, we thought if we hand the case back to the State, the State will say thank you. We
4 can now put him away in jail and have him in continuous confinement for X number of months or 2
5 years.

6 Ms. Stansbury. But your non-prosecution agreement said that they couldn't.

7 Mr. Acosta. No. It actually said that they could and they should.

8 And so we thought if we went back to the State, that the State would be a reliable partner.
9 Should I have assumed that? No, I should not have assumed that.

10 Ms. Stansbury. You thought the State, based on your discussions, was going to fully
11 investigate and prosecute after you engaged in that non-prosecution agreement?

12 Mr. Acosta. That's not what I said.

13 Ms. Stansbury. No, I'm asking you that question.

14 Mr. Acosta. So I thought that the State would be a reliable partner and put him in jail for the
15 period of time that he agreed to go in and not put him on work release, but --

16 Ms. Stansbury. Okay. So you did not believe they were going to fully investigation and
17 prosecute --

18 Mr. Acosta. Can you allow me to finish?

19 But going to page 34, going to your point about travel, and I'm reading the last paragraph --

20 Ms. Stansbury. It's actually not my point; it's yours.

21 And I'm going to pass it back to the Ranking Member.

22 Mr. Garcia. Let me move on. I appreciate it.

23 Mr. Acosta -- and I'm going to pass it back -- just really briefly. Just back to the line
24 prosecutor, Ms. Villafana, I believe, did you believe that she was a credible prosecutor?

25 Mr. Acosta. Yes, I did.

1 Mr. Garcia. In your recollection of her work, you would have found her to have been a good
2 prosecutor?

3 Mr. Acosta. Yes, I would have, and I did.

4 Mr. Garcia. Okay. Great. I just wanted to make sure that we established that.

5 And then, Mr. [REDACTED], do you want to first have -- I know we've got about 20 minutes. Do
6 you want to take another 15 and then the last 5 minutes you want to go to Ms. Ansari?

7 Go ahead, sure.

8 Ms. Stansbury. And I have one more set of questions before the end of the hour, if possible.

9 Mr. Garcia. One more question at the end of the hour?

10 Ms. Stansbury. Yeah, before the end of the hour.

11 Mr. Garcia. Okay. Let's go ahead and try to get through this next round of questions, then
12 Ms. Ansari, and then Ms. Stansbury can wrap it up.

13 Ms. Stansbury. I'll go after because it's a slightly different topic.

14 BY MR. [REDACTED]:

15 Q Just following up on the previous conversation. I did want to note for the record that
16 according to the OPR report, and I'm quoting from page 40, Ms. Villafana was opposed to the
17 State-based resolution. And the report states, quote, "In Villafana's view, the proposed State
18 resolution, quote, 'didn't make any sense,' and, quote, 'did not correspond,' unquote, to Department
19 policy requiring that a plea offer reflect, quote, 'the most serious, readily provable offense.'" And
20 that's quoting from the Ashcroft memo.

21 Is that consistent with your recollection?

22 A So my recollection, as I presented previously, which is I would characterize her as being
23 the most in favor of a Federal and the least in favor of a State. What she told OPR is much stronger
24 than -- at no point do I recall her telling me I am opposed to this.

25 And so what she told OPR is a much stronger characterization of her position than my

1 recollection of what she told me.

2 Q Do you have any reason to believe she was being untruthful when she spoke with OPR?

3 A Not at all.

4 Q Okay.

5 A But I do think that over time people's --

6 Q I'm sorry. On that Ms. Villafana, can we agree that as the line prosecutor, she was the
7 most closely acquainted with the evidence?

8 A I think that's fair, but I also think that, given the degree of involvement Mr. Menchel had
9 in this case, Mr. Menchel was very closely associated with the evidence, and he had been a former
10 sex crimes prosecutor, and so he received quite a bit of deference.

11 I should also say that the office had substantial disagreements with her analysis. For
12 example, on page 34, Lourie sent to Menchel --

13 Q That's okay. I will get to those issues as we proceed. I just want to also address an
14 issue with respect to the victims and concerns you had described with respect to what certain people
15 in your office viewed as the impeachability of them as witnesses at trial.

16 The OPR report found that your office identified 32 victims that the office was prepared to
17 include in Federal charges against Mr. Epstein. Did you or anyone else in the office do any sort of
18 quantitative analysis as to how many of those 32 were impeachable versus more credible on the
19 spectrum?

20 A I am certain that the supervisory team sat down and went through that. That's what
21 they do. That's what they do.

22 Q But do you have any personal knowledge of that?

23 A I don't have personal -- I didn't ask them, show me the chart where you went through
24 this memo, but this is what they do for a living. I wouldn't ask them in any case show me the chart
25 because this is what they do for a living every day.

1 Q But 32 victims is a lot of potential victims. Does it seem plausible that all 32 were
2 unreliable witnesses at trial?

3 A I do know one of the concerns that Ms. Villafana had -- and this is, again, going back to
4 her declaration -- was the interlocking nature of the victims and whether or not it could be portrayed
5 that they were supporting one another and whether it was possible to bring the case with
6 interlocking victims that had all -- not that all, many of whom had previously known one another.

7 Q But, again, do you have personal knowledge that she took that view as to all 32?

8 A I don't have pers- -- I didn't and I wouldn't and I don't think it's appropriate to sit down
9 and ask your prosecutors show me the chart with respect to all 32.

10 Q And I'm just going to note that the Southern District of New York in 2019 charged
11 Mr. Epstein on several Federal counts on the basis of only two unnamed victims in its indictment.
12 Are you aware of that?

13 A I'm aware that they charged on the basis of a number. I didn't know it was two. I
14 may have known that it was two. But, again --

15 Q I think you've answered my question, Mr. Acosta. Thank you. I appreciate that.

16 Mr. [REDACTED]. Ms. Ansari, did you have some questions?

17 Ms. Ansari. Sure. Very different topic.

18 I'm curious about your resignation from the first Trump administration. First of all, were you
19 offered a position in the Trump administration as it pertains to or because of your role in the Jeffrey
20 Epstein prosecution?

21 Mr. Acosta. Not in the least bit, no.

22 Ms. Ansari. Okay. And why did you resign from your position in the administration?

23 Mr. Acosta. The resignation was my choice. I resigned from the position. And let me just
24 say I was not asked to resign. It was not suggested by anyone at the White House that I resign. I
25 resigned -- you know, I think I said earlier I'm old school. I think that you come into these jobs, you

1 serve, and you leave, and they're special and they're a privilege. And if you become a distraction,
2 then it's not appropriate for you to serve in these jobs.

3 And so I made a decision. I called the White House shortly after breakfast, asked to speak to
4 the President. I told him that I thought it was time for me to move on. I did not want to be a
5 distraction to his administration, and I chose to resign.

6 We stepped out onto the South Lawn. He did an impromptu press conference right there.
7 And that's why I resigned. That's what I wrote, and I actually mean what I write usually. So, yes.

8 Ms. Ansari. And I think we touched on this a little bit earlier, but just to reemphasize. Had
9 you ever discussed the Epstein investigation or Jeffrey Epstein with Donald Trump prior to your
10 confirmation?

11 Mr. Acosta. No, I had not.

12 Ms. Ansari. Okay.

13 BY MR. [REDACTED]:

14 Q How about anyone in the White House?

15 A So as I said a little bit earlier, at some point in the confirmation process, the Epstein
16 matter came up, and at that point I know -- I don't recall who, but I know I discussed it with the
17 communications staff. I think it may have been in the context of a Washington Post article, but it
18 may have been before that. I don't remember. I know that there was a Washington Post article
19 above the fold at some point.

20 Q So to be clear --

21 A But can I finish answering -- I discussed it with other people, but --

22 Q Let's back up a little bit.

23 A Okay.

24 Q When were you first approached about potentially serving in the Trump administration?

25 A So I wasn't approached. I approached the Trump administration about serving in the

1 Trump administration.

2 Q And when was that?

3 A Sometime after the election.

4 Q After the election and before the inauguration or after the inauguration?

5 A Probably sometime after the inauguration.

6 But I want to complete my previous answer. At some point in the vetting or confirmation
7 process, I also may have discussed this with -- you go through an FBI background check, and it may or
8 may not have come up, and I may have talked with folks about that during the vetting process.

9 Ms. Ansari. Do you remember who you spoke to?

10 Mr. Acosta. Whoever's involved vetting. I didn't say I spoke to. I said I may have and
11 whoever would have been involved in that. But that was after I was given the position -- not given
12 the position. That would be an awful misnomer. That's after it was publicly announced that I was
13 to be nominated while I was being vetted.

1 [2:57 p.m.]

2 BY MR. [REDACTED]:

3 Q So you mentioned that you approached the Trump administration.

4 A Yes.

5 Q Who did you approach?

6 A I believe I approached -- a system had been set up that was -- that operated out of
7 Trump Tower, and I submitted my name through that system.

8 Q And after you approached the Trump administration and before your confirmation, did
9 you speak to Donald Trump at all?

10 A Before my confirmation? Yes. Before I was -- before he selected me as Secretary of
11 Labor, then I spoke to him.

12 Q And what did you say during that conversation?

13 A So he asked me some questions. None of them related to Epstein in any way. They
14 were all related to my background. They were all related to labor. I answered the questions.
15 And the next day he selected me.

16 Q Did you discuss your time at the U.S. Attorney's Office for the Southern District of
17 Florida?

18 A Beyond an item on my resume -- first, I don't know if I did or did not. But it was an
19 item on my resume, and I'm certain he had my resume.

20 Q So, just so I'm clear with the timeline -- and please correct me if I'm wrong -- did you say
21 you received the nomination before you went through a vetting process?

22 A So I believe there's a -- there's an announcement, and once the announcement's made,
23 then the FBI vetting process begins, the nomination is transmitted, and then the typical confirmation
24 process. That's not unusual.

25 Q Sure --

1 Mr. Garcia. Could I ask a followup?

2 Mr. [REDACTED]. Please.

3 Mr. Garcia. [Inaudible] vetting -- an interview or into a vetting process before the
4 announcement was made?

5 Mr. Acosta. So I had been vetted by the FBI for multiple positions before. I had
6 been interviewed -- I interviewed before the announcement was made with multiple members of the
7 administration. And my final interview was with President Trump. I interviewed with him. Then
8 the announcement was made.

9 BY MR. [REDACTED]:

10 Q And at any time during these other interviews before Donald Trump that you just
11 mentioned --

12 A Yes.

13 Q -- did the Jeffrey Epstein case come up?

14 A No.

15 Q Not once?

16 A Not to my recollection.

17 Q Did your tenure at the U.S. Attorney's Office for the Southern District of Florida come up
18 in any of these interviews prior?

19 A Not with any degree of specificity.

20 Q So -- all right. So the nomination is announced. Then you go through a vetting
21 process. Can you describe that vetting process for me?

22 A You fill out a lot of FBI forms. You answer questions at the Office of Presidential
23 Personnel. You have conversations, and it's either Presidential Personnel or White House Counsel
24 or both. And then once -- and then you're formally nominated, and you proceed to confirmation.

25 Q So, at any point from your approach to the Trump administration to potentially serve as

1 Secretary of Labor to your confirmation, did you have a discussion with anyone in the Trump
2 administration about political concerns regarding Jeffrey Epstein?

3 A Again, I did not. It may have come up during the vetting. It came up after I was
4 publicly announced, I believe while I was probably doing Hill visits. I think it was during Hill visits
5 because it was while I was in Washington. And I had a conversation with the communications staff
6 about it.

7 Ms. Stansbury. Can I ask a quick followup question? Sort of a sideline, and then going
8 back to you.

9 Over the course of your engagement at DOJ, did you ever see any documents in which Donald
10 Trump's name appeared with regards to the Epstein case?

11 Mr. Acosta. Not to my recollection.

12 Ms. Stansbury. Were you aware that Donald Trump was friends with Jeffrey Epstein?

13 Mr. Acosta. I have no recollection of Donald Trump associated with this investigation in any
14 way, shape, or form.

15 Ms. Stansbury. No, I'm just asking if they were friends. It is a well-known fact. It's okay.
16 You can answer in the affirmative on things that are well- --

17 Mr. Acosta. Of course I can answer in the affirmative if it's an affirmative answer. It's
18 20 years later. It's a well-known --

19 Ms. Stansbury. You read the newspaper, though, right?

20 Mr. Acosta. I'm sorry?

21 Ms. Stansbury. I said, you read the newspaper.

22 Mr. Acosta. I read newspapers now, and I know what's talked about in newspapers now.
23 In 2006, I don't -- you know, I don't think this was talked about as headline news in 2006.

24 Ms. Stansbury. Did the FBI interview Donald Trump or speak to him with regards to this
25 case?

1 Mr. Acosta. I have -- again, I did not direct the investigation. If our prosecutors thought
2 they should pursue that lead, they were free to pursue that lead. If a prosecutor thought --

3 Ms. Stansbury. But it is possible that they did based on their relationship?

4 Mr. Acosta. I have no knowledge that any person spoke to Donald Trump with respect to
5 Epstein. I have no knowledge of Donald Trump's name appearing in any Epstein document. I have
6 no knowledge of Donald Trump being associated with the Epstein investigation in any way. I am
7 not saying that it wasn't, because I can't speak on behalf of the many, many attorneys and case
8 agents involved. I can simply say that I have no knowledge of that.

9 And let me also say, I think if there was, I think it's pretty spectacular it hasn't leaked by now.
10 But that's just speculation.

11 Mr. Garcia. Let me also --

12 Ms. Stansbury. And then I just have one quick followup.

13 Mr. Garcia. How much time do we have left, [REDACTED]? Can I check?

14 Ms. Stansbury. Please?

15 Mr. Garcia. [REDACTED], how much time do we have left?

16 Mr. [REDACTED]. Five minutes left.

17 Mr. Garcia. Five minutes left. One last question from Ms. Stansbury --

18 Ms. Stansbury. Okay.

19 Mr. Garcia. -- and then we'll go to [REDACTED].

20 Ms. Stansbury. I just want to ask -- and I would love if you would just say "yes" or "no."
21 And I know you're an attorney, so you know how this works.

22 So, since January 20th of this year, 2025, have you spoken to or engaged in any form of
23 communication with the following individuals.

24 Mr. Acosta. Okay.

25 Ms. Stansbury. Donald Trump?

1 Mr. Acosta. No.

2 Ms. Stansbury. Pam Bondi?

3 Mr. Acosta. Um --

4 Ms. Stansbury. It's just "yes" or "no."

5 Mr. Acosta. Yes. And I'm going to answer --

6 Ms. Stansbury. Okay.

7 Mr. Acosta. -- the question. I have --

8 Ms. Stansbury. Director Patel?

9 Mr. Acosta. I have been --

10 Ms. Stansbury. I've got a list. I've got a list.

11 Mr. Acosta. But I need to answer the question.

12 Ms. Stansbury. Okay.

13 Mr. Acosta. I have had pleasantries with -- I've had pleasantries -- what you'd categorize as
14 pleasantries with Pam Bondi, "hello," "how are you" --

15 Ms. Stansbury. Okay.

16 Mr. Acosta. -- as part of a large Zoom conference.

17 Ms. Stansbury. Okay.

18 Mr. Acosta. But I have not spoken to her in person and have not spoken to her in any way
19 about anything having to do with Jeffrey Epstein.

20 Ms. Stansbury. Director Patel?

21 Mr. Acosta. No.

22 Ms. Stansbury. Any employee or political appointee of the White House?

23 Mr. Acosta. That is a broad question. I'm sure I've had multiple conversations with
24 employees of the White House. I have not spoken to anyone at the White House, to my
25 recollection, about anything having to do with Jeffrey Epstein since January 20th.

1 Ms. Stansbury. Any employee or political appointee of the Department of Justice?

2 Mr. Acosta. As I said, I was in a Zoom -- in a Zoom meeting with Attorney General Bondi and
3 several other individuals. We probably said "hello," "how are you," and had pleasantries, but
4 nothing beyond that.

5 Ms. Stansbury. And any employee or appointee of the FBI?

6 Mr. Acosta. No one for the FBI, no.

7 Ms. Stansbury. Okay. So DOJ and the White House. Got it. Okay.

8 Mr. Garcia. [REDACTED]?

9 BY MR. [REDACTED]:

10 Q So I just want to go back quickly. You said, at some point during the vetting process --

11 A Yeah.

12 Q -- Jeffrey Epstein may have come up. Is that right?

13 A I said it may have. I don't recall if it did or did not.

14 Q If it, in fact, had come up, when would it have come up, in your speculation?

15 A In my speculation, it would have come up if -- the question may have arisen as part of
16 "here are newspaper articles" or something along those lines.

17 Q And, in leading up, in your preparation for the confirmation hearing with the Senate --

18 A Yes.

19 Q -- did you prepare for questions on Jeffrey Epstein?

20 A So there were articles in the media about that, and so, yes, I did prepare. And I was
21 asked by the Senate about this, and I answered consistent with my answers today.

22 Q Who did you prepare your questions with?

23 A Myself.

24 Q No one from the White House?

25 A I didn't prepare -- these are questions that would be within my general knowledge, not

1 the White House, and so, no.

2 Q You didn't coordinate with the White House on your questions? They didn't review
3 your questions in any respect?

4 A So I was given binders about the Department of Labor and preparatory documents
5 having to do with Department of Labor that is consistent with any transition. And as part of that, I
6 certainly had discussions about labor policy and the Department of Labor with part of the transition
7 team, which was then at the Department of Labor, actually not at the White House, but at the
8 Department of Labor. This would not have been within their purview. It wouldn't have
9 been -- these were matters about me, not about labor policy. And so I would not have -- that would
10 not have been part of that particular so-called "prep."

11 Q I understand. Just so we're very clear, you did not discuss your answers, regardless of
12 labor policy, with the White House prior to your confirmation hearing?

13 A I'm sorry. When you say "regardless of" --

14 Q Sure. I'll clarify. Labor policy aside --

15 A Labor --

16 Q -- did you discuss your answers for the Senate confirmation hearing with anyone at the
17 White House?

18 A So, to be clear, I did not, to my recollection, discuss anything having to do with Epstein
19 or my answers --

20 Q That wasn't my question, sir.

21 A -- for -- you know, with anyone at the White House.

22 And I recall very few instances -- as a general matter, the conversations about preparing for
23 hearings took place with transition staff at the Department and not the White House. So I don't
24 even know if we discussed the answers to any confirmation question with anyone at the White
25 House, including labor policy.

1 Mr. [REDACTED]. We'll go off the record.

2 [Recess.]

3 Mr. [REDACTED]. We can go on the record.

4 BY MR. [REDACTED]:

5 Q I have a couple questions just to make sure the record's clear, and then I've been
6 crossing off questions as you've been answering them.

7 You were asked at the very end by Ms. Stansbury if you had ever spoken with anyone about
8 any subject from January 20th, 2025, until present at the White House or DOJ. You said, yes, but
9 not about the Epstein case. Is that correct?

10 A That is correct.

11 Q Those were either social or professional, but not Epstein?

12 A To my knowledge, I have spoken with no -- no one in government about the Epstein
13 matter.

14 Q Thank you. It just felt like that was fishing for a "yes" that's going to end up on the
15 cameras here in a second, so I appreciate the scoping clarification.

16 You were also asked a lot about whether or not the FBI or anyone in your office interviewed
17 Donald Trump during the 2006-to-2008 Epstein investigation. And remind me of your answer again,
18 that --

19 A I'm sorry. I became preoccupied because of the -- the statement I said wasn't limited
20 in scope for time. Since January 20th, to my knowledge, I haven't spoken with anyone in
21 government about the Epstein matter.

22 Q Thank you.

23 So you were also asked about whether or not the FBI or your office interviewed Donald
24 Trump in the 2006-to-2008 investigation into Epstein --

25 A Yes.

1 Q -- based off a couple articles and that they both live in Palm Beach and Epstein went to
2 Mar-a-Lago.

3 Do you know how many members there are at Mar-a-Lago?

4 A I would assume hundreds, maybe more.

5 Q Did you interview all of them?

6 A Again, I don't know who we interviewed. I don't direct interviews. I have no
7 knowledge of who was interviewed or not interviewed. I have no knowledge -- to my knowledge, to
8 my recollection, to my memory, Donald Trump's name did not appear in any document or any matter
9 related to Jeffrey Epstein.

10 Q What about, do you know how many people lived on Palm Beach Island at the time?

11 A I have no idea.

12 Q Did you interview all those people too?

13 A Again, I don't think so. I'm pretty certain we did not.

14 Q All right. And you were confident in your line attorneys that, if they found a lead, they
15 would follow it and they would interview that person?

16 A They would, yes.

17 Q All right. Thank you.

18 We have talked about the non-prosecution agreement a lot, the OPR report a lot. I just
19 want to -- the OPR report, I believe, came to the conclusion nothing illegal, against a regulation,
20 unethical happened regarding the non-prosecution report but that it showed poor judgment, I think
21 is what they said.

22 Do you agree with their characterization of events?

23 A I agree with their findings with respect to events, and I agree with their core finding that
24 the State resolution was poor judgment. In hindsight, it had any number of problems.

25 Q And you've touched on this a little bit, but I think you testified today that you did not

1 foresee or anticipate a lot of the State problems that would follow the NPA. Is that correct?

2 A That is correct.

3 Q And, again, hindsight being 20/20, if you had known the State was going to be a
4 not-supportive actor in this endeavor, would you have maybe addressed this case differently?

5 A There is no way if we knew that the State was going to proceed as it did that we would
6 have addressed this case the way we did.

7 Q Thank you.

8 I'm going further back in time, so, again, I understand if there is a lack of recollection.

9 Were you aware -- I'll back up. When did you become U.S. attorney for the Southern District
10 of Florida?

11 A Sometime in 2005.

12 Q Were you aware of Jeffrey Epstein prior to the investigation into him?

13 A I was not.

14 Q Were you aware that Palm Beach was investigating him prior to your office taking over?

15 A The first recollection that I remember of Jeffrey Epstein was shortly before I decided
16 how to proceed on the terms sheet. I know I was briefed in 2006. I don't even recall being
17 briefed. And I don't recall even recognizing his name when I was briefed.

18 Q Do you recall any communications between yourself and Palm Beach Police Chief
19 Michael Reiter?

20 A We may have communicated. I don't know. I don't remember.

21 Q Communications -- I mean, he was the chief of police in Palm Beach -- may not have
22 been specific to Epstein; it could've been any number of criminal matters in the jurisdiction.

23 A That's correct.

24 Q But do you recall any specific to Epstein?

25 A I do not remember, no.

1 Q What about with the Palm Beach lead detective, Joseph Recarey? Do you recall any
2 specific to Epstein?

3 A I don't recall any communications specific to Epstein. And I also think it would've been
4 unusual for me to communicate with a detective without his boss present.

5 Q You've talked about the Petite -- is that right?

6 A Yes.

7 Q -- the Petite motion that would allow concurrent Federal and State investigations.

8 A Correct.

9 Q When did it -- if you remember, when did it shift to -- like, away from that?

10 A So one of the difficulties is, it -- at the end of the day, the State did not ink their deal.
11 They had an agreement, but they did not ink the deal.

12 Q Uh-huh.

13 A And so the Petite waiver does not technically apply. But it informed the decision.
14 The avenue of proceeding through the State and looking at this as a State case informed the
15 outcome.

16 Q Did you review, personally review, the findings of the Palm Beach investigation?

17 A The -- which investigation, when you say "Palm Beach investigation"?

18 Q The investigation that they handed off to your office.

19 A At the time, I did not.

20 Q Did you review it prior to the NPA? The evidentiary --

21 A I would've been fully briefed on the evidence, whether that was through my supervisory
22 staff or by my reading summaries of it. As a general course, U.S. attorneys don't sit down with all
23 the evidence files and the 302s.

24 Q Have you ever -- do you know who Sandy Berger is?

25 A I do not.

1 Q So I'm assuming you've never spoken to Sandy Berger, if you don't know who he is?

2 A I would assume so.

3 Q All right.

4 What about Doug Band? Have you ever spoken to Doug Band?

5 A Not to my knowledge, no.

6 Q All right.

7 Do you recall reviewing the West Palm Beach Police report regarding Mr. Epstein from 2005?

8 A Again, in the usual course, I would've been briefed, I would've had summaries. I

9 wouldn't review the police reports or the 302s.

10 Q Shifting to when it became an FBI investigation --

11 A Yes.

12 Q -- after Palm Beach PD handed it over, were you involved at all in the decision-making
13 process of the FBI or the U.S. Attorney's Office taking up the case?

14 A I was not.

15 Q That's something that someone on the supervisory staff can make on their own?

16 A Let me -- let me -- let me revise the answer.

17 I have no recollection of being briefed. My understanding was, based on the OPR report,
18 that when Ms. Villafana approached my then-Criminal chief and myself, it was before taking up the
19 case, to ask if the office wanted to pursue the case. And I said, yes, this is the kind of thing we
20 should pursue. And we pursued it.

21 So, yes, I was -- it was unusual for me to say "take up the case." Typically she would've had
22 authority to do this, but she thought she should check. And I said, yes, go forward.

23 Q Do you recall any conversations of why she thought she should check in this case?

24 A Again, not my recollection, but the report. Because the State had dropped the ball,
25 she wanted to check to see if we were willing to proceed.

1 Q Because it might make the State look a little bad?

2 A Perhaps because it might make the State bad. For whatever other reasons she wanted
3 to check. And I said, go forward.

4 Q All right.

5 And then I think you touched on it briefly, but: Don't recall and would be odd for you to
6 have communication with the FBI case agents, but possible communication with the special agent in
7 charge?

8 A That is correct.

9 Q All right.

10 Do you recall if the FBI ever recommended bringing Federal sex trafficking charges?

11 A Not to my recollection.

12 Q And this may be in the OPR report. In May of 2007, Ms. Villafana recommended
13 indicting Epstein, and the FBI wanted to arrest him while he was in the Virgin Islands. Were you
14 aware of that?

15 A In May 2007, I believe she submitted a draft recommendation that had not gone
16 through the supervisory chain. Her immediate supervisor actually had concerns about it, and I
17 believe the OPR report talks about how he thinks it should proceed, that there are different charging
18 decisions that he would make. And so she and he and others proceeded to have those discussions.

19 Q You're referencing the 60-count indictment that we've --

20 A That's correct.

21 Q -- the draft 60-count indictment that we've talked about?

22 A Yes.

23 Q Just generally, is it common for line prosecutors to draft indictments that then get
24 negotiated with senior managers?

25 A You start with something, and you negotiate it. That's very typical.

1 It's been characterized as this was ready to go. It was her draft of something that hadn't
2 been vetted through the usual office process.

3 Q In conjunction with that indictment, do you recall any conversations about the FBI
4 wishing to take Epstein into custody in the Virgin Islands?

5 A It was 20 years ago. I don't remember.

6 Q Yeah.

7 Moving forward in the timeline -- and, kind of, there's the normal state of play, and then
8 there's the defense counsel's state of play in this case.

9 Normally, would line prosecutors like Ms. Villafana have the authority to negotiate with
10 defense counsel on their own and then come to you for -- come up the chain for approval? Or
11 would they have to bring a more senior attorney in?

12 A Normally, they would have the authority to proceed on their own.

13 Q In this case, was that authority curtailed because of defense counsel tactics?

14 A In this case, I think, actually -- and we saw it where we talked about previously -- where I
15 read from the OPR report on that clause that you asked about.

16 Q Uh-huh.

17 A She negotiated that. She sent an email to her supervisor saying, "I don't see any
18 problem with this. Do you?" And that's how it would typically proceed, and I think that's pretty
19 normal.

20 Q Okay.

21 There weren't -- what's the -- I mean, I don't know how -- I'm not asking you how old she was
22 in -- what's, kind of, the average age of a line prosecutor in the U.S. Attorney's Office?

23 A I don't even want to begin to speculate about that.

24 Q Okay. Younger than Alan Dershowitz?

25 A Younger than Alan Dershowitz.

1 But she was experienced, and we trusted her. And I think the record -- that's a good
2 example where she negotiated -- she was checking with her supervisor --

3 Q Uh-huh.

4 A -- but she was conducting the negotiations.

5 Q All right.

6 Do you recall any 2006 meetings between yourself and Ms. Villafana and Mr. Sloman
7 regarding Epstein?

8 A 2006?

9 Q Yeah. July 2006.

10 A I believe that is the initial meeting where she just said, can I pursue this, and we said
11 yes.

12 Q Okay. Were there any limitations placed on her in this case?

13 A Not that I remember, and I'd be highly surprised if -- I'm going to guess it was a very
14 short meeting. She gave a summary and said, can I pursue this, and the answer was yes.

15 Q Do you recall, outside of Epstein's defense counsels, who were high-profile in their own
16 right, do you recall getting any phone calls or communications from other high-profile individuals
17 suggesting you back off the Epstein case?

18 A No.

19 Q He flew around the world with President Clinton. Did President Clinton ever call you?

20 A President Clinton never called me.

21 Q He flew around the world with Woody Allen and others. Did you ever --

22 A Had no --

23 Q -- get a phone call from Woody Allen?

24 A -- no communications with any high-profile or mid-profile individual.

25 Q Queen of England ever call you?

1 A Not yet.

2 Q All right. Thank you.

3 You said that you hadn't heard Mr. Epstein's name prior to them coming to you for approval
4 to take on the case. So not aware of any reputation prior to then?

5 A No.

6 Q We've talked a lot about the kind of defense tactics, the various types of pressure and
7 methods that they employed to, I'll say, advocate for their client, but get awfully close to the line --

8 A Yes.

9 Q -- of unethical.

10 A And that we resisted at all points.

11 Q Did the State's Attorney's Office or the Palm Beach PD ever brief you about similar
12 tactics that Epstein had used against them?

13 A Not that I remember.

14 Q Did you ever become aware of Epstein using similar tactics against them?

15 A I have since then read that Mr. Dershowitz met with the State attorney, and I imagine
16 the meetings were similar.

17 Q You've said today and in the letter from 2011, too, that you resisted the defense tactics.
18 To the best that you can recall -- and this is a lot to recall -- did the draft NPA that your office
19 put together change a lot between your drafting and the final signature?

20 A I think it changed in -- of the three core terms, it went from 24 to 18, but we still got
21 registration, and we still got recovery for the victims.

22 Q To the best of your recollection, did Epstein's defense counsels suggest significant
23 changes to the agreement?

24 A Epstein's defense counsels were asking for home confinement. They were asking for
25 no jail time. They were asking us to drop the case entirely. Epstein's defense counsels wanted

1 everything. And again and again we told them no.

2 Q I think you've touched on this a little bit when I asked if you had interviewed Ms.
3 Maxwell. Do you recall if your prosecutorial team was aware of Ms. Maxwell at the time?

4 A I don't recall the name whatsoever back then.

5 Q She was mentioned in the original Palm Beach Police report. Do you have any
6 recollection of that?

7 A I do not.

8 Q Were you contacted at all when she was subsequently arrested in, I think, late 2019?

9 A I was not.

10 Q Were you contacted at all during her trial?

11 A I was not.

12 Q We've talked a lot about the original proposed draft 60-count indictment that Ms.
13 Villafana drafted, and then there's been mention of the lengthy prosecution memo.

14 What is the purpose of a prosecution memo versus an indictment?

15 A So a prosecution memo has two purposes: one, to go forward, but, two, to test -- to
16 write a draft so you can test your theories so that other people can review and say, I agree/I
17 disagree, so you can pressure-test what an eventual indictment might look like.

18 Q On -- I'm going to use a term, and if you don't recognize it, I'll try to explain it. But on
19 high-profile cases like this, would you have a red team, someone that wasn't read in, that could
20 review the prosecution memo and indictment?

21 A We might. In this case, we did not, but we did later have individuals review the case
22 just to get independent assessments.

23 Mr. [REDACTED]: And are those prosecution memos and -- the prosecution memo and the draft
24 indictment, are those kept in the case file, like, through perpetuity? Is it remaining in the case file
25 to this day?

1 Mr. Acosta. I can't speak to that. I don't know how -- I think your definition of a case file is
2 more specific than reality.

3 Mr. [REDACTED]. Okay.

4 BY MR. [REDACTED]:

5 Q I'm sure this has been touched on, but I'm going to ask it again. Did you ever
6 personally review the memo or the draft indictment?

7 A Again, it was 20 years ago. Sometimes I'd review the memo. Sometimes I'd sit
8 around a table and say, "Let's go over this." Sometimes I'd say, "What do y'all think?"

9 Q Would that have been a situation of checking with Main Justice if that was the way that
10 they would want to proceed versus a non-prosecution agreement?

11 A We had authority to proceed as we saw fit. We didn't check with Main Justice, as I
12 remember it.

13 Q Ballpark, how many AUSAs are in that office?

14 A Three hundred?

15 Q Understanding it's one case out of what I'm sure is at least hundreds at any given time in
16 that office, how often would you meet with the attorneys on this case to discuss it, to the best of
17 your recollection?

18 A So that would vary.

19 Before the NPA, before the agreement was signed, other than the decision to go forward with
20 the State resolution and other than giving defense counsel their hearing, very, very little. I thought
21 it was important that Ms. Villafana have authority to negotiate.

22 After it was signed, when it was being appealed to Washington and when they were
23 challenging whether or not the office had authority to seek monetary recoveries, first, those were
24 policy decisions in which I would more naturally get involved; secondly, they were appeals to
25 Washington in which I'd more naturally get involved; and, thirdly, they were, you know, about

1 whether the office is acting correctly or not.

2 And so, at that point, the first assistant was supervising the case with Ms. Villafana directly,
3 and I probably spoke to him about it often.

4 Q We've talked about, kind of, the overarching theme is that the prosecutors in your office
5 favored a negotiated agreement, with the, kind of, sub-themes of some favored Federal charges
6 more than State and some favored State and some just favored a negotiated agreement.

7 At any point did D.C. express concerns about a negotiated agreement versus going to trial?

8 A They did not. They were aware of it when it was presented. When defense counsel
9 came in, the head of CEOS was present at that meeting. He understood how we were proceeding.
10 I don't recall him taking a side and saying, D.C. disagrees with this.

11 Q And, of course, during Epstein's defense counsels' petitions to D.C., they sided with you
12 throughout that?

13 A They supported our authority to go forward.

14 Q You spoke a little bit about State Attorney "Krysker"?

15 A Krischer.

16 Q Krischer. Do you recall any discussions with him regarding the Epstein case?

17 A I don't recall any discussions. We may have had them. I think they'd be fairly brief.

18 Q Would he have had any involvement in the post-plea situation with Epstein?

19 A To the extent his office was involved in victim notification, he would have had
20 involvement in some of those discussions. I believe the OPR report states -- and you can
21 confirm -- that the decision to go from 18 -- that one of the key parts of the decision to go from 24 to
22 18 months took place in a discussion between him and our trial attorneys in his office.

23 Q But you don't know, or maybe he just wouldn't have been involved in any discussions
24 regarding the work-release program or anything like that?

25 A So his office was consulted about work release. My understanding was, they were

1 supposed to notify us. And his office did not notify us. My understanding was that that came out
2 of the Palm Beach Sheriff's Office.

3 Q And, again, you never, to the best of your recollection, received any communication
4 from DOJ leadership advising caution in prosecuting Jeffrey Epstein?

5 A No, I did not.

6 Q Were you aware of a letter that the Epstein defense counsels sent in support of him,
7 citing and referencing his political connections, in regards to the non-prosecution agreement?

8 A I have since read that. I don't recall any details. And whoever it was sent to, I don't
9 think it had any influence on them.

10 Q And you don't recall any high-profile individuals making a call to your office, saying,
11 "We've got to go easy on this guy"?

12 A I do not.

13 Q The minority touched on it a little bit, the former Criminal chief, Menchel, and his
14 relationship with Lily Sanchez, who became one of Epstein's counsels. And you said you were
15 aware of that after the fact, not concurrently?

16 A I became aware of that when I was asked about it by the Office of Professional
17 Responsibility. My first assistant became aware of it when he was asked about it at the Office of
18 Professional Responsibility.

19 Q Did -- and just pardon me for not remembering, if it was already touched on. Did Mr.
20 Menchel recuse himself because of that relationship?

21 A He did not.

22 Q Should he have?

23 A I should have known about it, or my first assistant should have known about it, and we
24 should have had a fulsome discussion -- how long ago was the relationship, what was the nature of
25 the relationship.

1 I wish I would've been informed. I was not informed. I still don't know what the details
2 are.

3 Q Are you -- were you aware then of photographs of Menchel with Epstein in Aspen,
4 Colorado, skiing?

5 A I was not. And I wasn't aware of it 'til this minute.

6 Q If you were aware of it, would that raise some concerns?

7 A Yes, it would. When were the pictures?

8 Mr. [REDACTED]: Do you know when?

9 Mr. [REDACTED]: I think it was early 2000s.

10 BY MR. [REDACTED]:

11 Q We're working on finding it.

12 And then my maybe last bucket, and maybe the fastest one, maybe the slowest one -- we'll
13 find out.

14 Steve Bannon has publicly stated that you told him that Epstein, quote, "belonged to
15 intelligence."

16 Do you recall ever speaking to Steve Bannon about Jeffrey Epstein?

17 A I don't recall ever speaking to Steve Bannon about Jeffrey Epstein.

18 Q Have you ever spoken to Steve Bannon?

19 A I have spoken to Steve Bannon. I have no recollection of speaking to Steve Bannon
20 about Jeffrey Epstein.

21 I have been asked -- up until now, I did not know if that was the source of that anonymous
22 White House quote. I've been asked about that. I didn't know where it came from. I'll take your
23 word it came from Mr. Bannon, but I don't know where it came from. I never made that assertion.

24 I was asked about it at my press conference. I said, that's not truthful. I was asked about it
25 in the Office of Professional Responsibility interview. I said, I have no knowledge as to whether he

1 was or was not a member of the intelligence community.

2 Q So that gets to some of my next ones.

3 You've never made a statement similar to Epstein "belonging to intelligence"?

4 A I have not.

5 Q During the course of your investigation, did anyone from the intelligence community
6 approach you regarding Mr. Epstein?

7 A No.

8 Q No one from the CIA?

9 A No.

10 Q No one from the State Department or NSA or --

11 A No.

12 Q -- well, FBI would've. No one from the FBI Intelligence --

13 A Yes.

14 Q -- Division?

15 A But no.

16 Q Any foreign intelligence services like Mossad?

17 A No.

18 Again, I do not know if he did or did not. If you want to know that, you need to ask the
19 intelligence community. I have not been approached by any member of the intelligence
20 community, and I have no knowledge of his membership in the intelligence community.

21 Q And on that -- my last question -- do you have any reason to believe that Jeffrey Epstein
22 was an asset for a domestic or foreign intelligence operation?

23 A I have no reason to believe that. And if there was any secure information, procedures
24 would have been triggered that were never triggered.

25 Q And no one approached you and said, you can't prosecute this guy, he's an asset?

1 A No one approached me and said that.

2 Q Thanks.

3 Mr. [REDACTED]. We can go off the record. Thank you.

4 [Recess.]

5 Mr. [REDACTED]. On the record.

6 BY MR. [REDACTED]:

7 Q Mr. Acosta, I just wanted to return to our conversation earlier about the investigative
8 steps that your office undertook.

9 Going back to the NPA, that document identifies four women as potential co-conspirators,
10 correct?

11 A Yes, it does. I don't know if -- I don't want to give them a status that identifies
12 four -- four women, yes.

13 Q I'll represent, that's how the language in the agreement identifies them.

14 A Okay.

15 Q All right. Did your office ever interview any of them?

16 A I do not know. As I said previously, I would not have directed who was interviewed or
17 not interviewed in these types of investigations.

18 Q Well, it's typical, isn't it, in criminal investigations for potential co-conspirators to be
19 interviewed and hopefully cooperated up the chain of command? Isn't that so?

20 A I would say it's typical.

21 Q Okay. Would you have expected it to happen in this case?

22 A I don't know if they were. And if they were not, I don't know why.

23 Q To your knowledge, it did not?

24 A To my knowledge, I don't know.

25 Q Okay.

1 A Which is different than "it did not."

2 Q Okay.

3 And I think the question of whether any of Mr. Epstein's employees were interviewed was
4 also raised earlier, and I understood your testimony to be that you also didn't know if that happened.

5 A Again, I did not direct how -- how a matter was investigated.

6 Q Okay.

7 Would you expect that, in order to perform a thorough investigation concerning sex crimes,
8 you would need to talk to the employees who worked at the premises where the crimes potentially
9 occurred?

10 A I will accept that.

11 Q Okay.

12 We spoke earlier about the removal of computer equipment from Mr. Epstein's home prior to
13 execution of the search warrant by the Palm Beach Police Department and your office's attempts to
14 obtain those materials from Mr. Epstein's attorneys.

15 To your knowledge, did they ever succeed in doing so?

16 A I do not know.

17 Q Would those materials, in your view, potentially have shed more light on the scope and
18 magnitude --

19 A Let me revise my prior question.

20 Q Just -- can I just get this one out first?

21 A Yes.

22 Q Would those materials, in your view, potentially have shed more light on the scope and
23 magnitude of Mr. Epstein's crimes?

24 A They may have.

25 And I do want to revise my prior answer. I do not know based on my personal recollection.

1 I am aware, I believe from the OPR report, that they were not obtained. But I don't have any
2 personal recollection of the computer material issue or what may or may not have been on them.
3 And so I just wanted to make that clear.

4 Q Okay. Understood.

5 To your knowledge, did your office obtain Mr. Epstein's flight records?

6 A Once again, I did not direct how the office proceeded with the investigation. I don't
7 know 20 years later what may or may not have been part of a factual briefing.

8 Q So I'm going to ask the same question with respect to Mr. Epstein's financial records. If
9 you want to give the same answer --

10 A Again --

11 Q -- that's fine.

12 A Same answer.

13 Q Okay.

14 So my question, in light of all of that: Would it, in your view, have been possible at the time
15 the NPA was entered into to make a reliable assessment regarding the strength of the case against
16 Mr. Epstein without cooperating witnesses, without having spoken to employees, without flight logs,
17 without the contents of Mr. Epstein's computers or his financial records, to the extent that evidence
18 existed?

19 A So the matter came to our office in 2006. The prosecutor on the case was an
20 experienced prosecutor. She had discretion to proceed as she saw fit. At some point, she said,
21 "It's now time to move to the next stage, and it's time to bring this matter to resolution." That,
22 again, was within her discretion.

23 Hindsight's 20/20. In retrospect, maybe she should have done more; maybe she should not
24 have done more. It's very difficult, sitting here 20 years later, to second-guess her decisions.

25 Q Hindsight is 20/20, but that information was ascertainable at the time, wasn't it?

1 A Again, I think it's very difficult to second-guess her decisions. She's an outstanding
2 prosecutor. She worked on this case. She wanted to put him in jail. And I have to trust that she
3 would have pursued the types of evidence, whether flight logs or other matters, that would have
4 contributed to her theory of how you can put this man in jail, because that was her focus.

5 Q And, again, it was you, as I think you said earlier this morning, who approved the
6 execution of the NPA --

7 A Yes.

8 Q -- on the basis of the evidentiary record as it existed at the time.

9 A That is correct.

10 Q We have spoken on and off today about the involvement of the DOJ's Child Exploitation
11 and Obscenity Section, or CEOS, in your office's investigation.

12 I just wanted to note for the record that the OPR report, at page 47, notes that Mr.
13 Oosterbaan, who, as I understand, was the chief of that section --

14 A Yeah.

15 Q -- reviewed Ms. Villafana's charging memo and, in an email to Mr. Sloman, Mr. Menchel,
16 and Mr. Louriee, stated that Ms. Villafana, quote, "did a terrific job," unquote, and that CEOS, quote,
17 "agrees with her legal analysis. Her charging decisions are legally sound," end quote.

18 A On page --

19 Q Forty-seven.

20 Were you ever made aware of Mr. Oosterbaan's views?

21 A I was not. And I'd note that Mr. Sloman, Menchel, and Louriee at various points have
22 stated counter-views to that.

23 Mr. Oosterbaan was invited to the meeting that we had in September. He was present for
24 that meeting. He understood our approach. I have no recollection of him taking me aside and
25 saying, "Alex," or "Mr. Acosta" -- I would've been "Alex" to him, because I didn't have that level of

1 formality -- "just so you know," dot, dot, dot, dot, dot.

2 Q And I am correct that CEOS is the component of DOJ that's charged with specific
3 expertise in sex cases, child exploitation cases --

4 A And CEOS was the one who then sent an expert to review not just the memo but the
5 entire file, and that expert was the one that said it's, quote/unquote, a "crapshoot."

6 Q And that person was a subordinate of Mr. Oosterbaan?

7 A That person was a subordinate but a very experienced -- I think OPR notes that -- a
8 highly experienced prosecutor.

9 Ms. Stansbury. Can I just ask one quick followup on that?

10 Mr. Acosta. Yeah.

11 Ms. Stansbury. So, earlier when you said that part of the discussions with the team about
12 prosecution --

13 Mr. Acosta. Yeah.

14 Ms. Stansbury. -- you did mention the quote, a "crapshoot," that was just with respect to
15 the CEOS investigation, then, correct?

16 Mr. Acosta. That was with respect to if we were to go to trial.

17 Ms. Stansbury. But based on the evidence around the investigation into these particular
18 materials?

19 Mr. Acosta. I don't know what she reviewed or didn't review. She had access to the full
20 file and whatever was in the file.

21 Ms. Stansbury. Okay.

22 BY MR. [REDACTED]:

23 Q The OPR report, as I read it, concluded that your decision to defer to the State was
24 based, at least in part, on your interpretation of the DOJ's Petite policy. Is that correct?

25 A I think it was influenced by the Petite policy. And it was influenced by the idea that

1 there were two sovereigns and this was a State case.

2 Q The report concluded that -- or noted, rather, that the policy applies only to Federal
3 prosecutions that follow completed State prosecutions, not when a State investigation or
4 prosecution remains pending. Is that correct?

5 A I think I said earlier that, as a technical matter, the Petite policy did not apply because it
6 was not inked, the agreement was not inked at the State level, but that the fact that it came in
7 through that analysis continued to influence how we looked at the case.

8 Q Again per the OPR report, it was your decision, as I understand it, that the U.S.
9 Attorney's Office should offer Mr. Epstein a 2-year term of imprisonment. Is that correct?

10 A That is correct.

11 Q Okay. How did you arrive at 2 years?

12 A So, to my recollection, that's what he would have received if he had gone to jail on the
13 original State charges.

14 I would not have had the expertise to guess that, because I do not know the State system as
15 well as the Federal system. So I would infer that at some point I asked our supervisory team, "If this
16 had gone right from the beginning, if the State attorney had not dropped the ball, what would he be
17 serving?" and someone told me, "Two years."

18 Q Okay.

19 So that brings me back to the question of, why not follow Ms. Villafana's recommendations
20 under the Federal sentencing guidelines of a substantially higher sentence in the range of 160 to
21 210 months with an upward departure?

22 A Once again, I don't think Ms. Villafana's guidelines were on the table -- not because of
23 me, but because everyone in the office favored a negotiated resolution. I think the alternative
24 would have been a 371.

25 Ms. Stansbury. Could you clarify what that means?

1 Mr. Acosta. A 371 is a Federal charge of conspiracy, and it's used when you're trying to
2 obtain a negotiated plea. It's not used exclusively, but it's often used by Federal prosecutors,
3 because a negotiated plea of a 371 with a Rule 11 provides a mechanism for having a term of years
4 that someone may agree to.

5 I don't think anyone -- something that I think is being lost in this: No one in the office
6 thought that, "Oh, 2 years is enough." No one thought, "Oh, 2 years is full justice." The question
7 was, do you go to trial and risk him getting off entirely or do you take a certainty of a sentence?
8 And how do you -- how do you get there?

9 And so the idea of what the police were originally seeking is where I sort of ended up. But
10 no one -- no one said, "Oh, 2 years is enough." It was negotiated plea or risk going to trial, and
11 that's what motivated this. A 371 with a Rule 11 was the alternative that we talked about.

12 BY MR. [REDACTED]:

13 Q To return to our discussion this morning, the decision to proceed via a State plea rather
14 than Federal charges was a choice, right?

15 A It was a choice. And my ultimate decision was to do that. I don't think I've implied
16 otherwise.

17 Q Just, again, the 2-year proposed sentence was negotiated down over time, initially to
18 20 months and then ultimately to 18 months, of which Mr. Epstein, as we spoke about, only served
19 13.

20 Why the reduction over the course of your negotiations?

21 A So, two parts to it.

22 First, in the negotiations, the prosecuting attorney needs some discretion to proceed. She
23 wanted Epstein to go to jail, just like everyone else, and she had that discretion. I believe there was
24 a meeting at the State's Attorney's Office -- this isn't my recollection; this is the report -- where it
25 went from 24 to 18. And I would support -- if she thought or her supervising attorney thought that

1 that was the right outcome, I would support their discretion.

2 That is separate and apart from how it was finally served. Because the idea of work release
3 was something that none of us contemplated. We had assurance that he would not get that. All
4 of us were shocked, upset about that. And had we known that he was going to get work release,
5 this would not have gone forward, because what we contemplated was continuous confinement.

6 Q And in terms of the decision to reduce the sentence by a substantial amount, what was
7 Mr. Epstein's leverage, in your view? Why did the government agree to it, and what did it gain from
8 that concession?

9 A I can't speculate, 20 years after the fact, what the leverage was. What the government
10 gained -- what the government gained is to have Mr. Epstein -- to have Epstein go to jail. And I
11 understand the 18 and the 24, but to have him actually plead guilty and say he abused these victims
12 and go to jail and send a signal to Palm Beach, where these prosecutions hadn't happened, that you
13 can't get away with this was, in our view, a substantial interest and a substantial win.

14 And I understand it's viewed very differently now. And had we known back then what we
15 know now, it would've proceeded along a different route. And I understand along the way that the
16 victims weren't fully informed, for reasons that our office acted in the best motive but that left them
17 feeling that we weren't forthright. I get all that. But having him go to jail was a big deal. And
18 having him register and tell the world, look, he is a sex offender, that matters.

19 Q So, if I'm understanding your testimony correctly, the truncated length of his prison
20 sentence was the result of the State-based regime that you opted to pursue over the Federal course.

21 A What I was testifying to is that the move from -- I don't know why we moved from 24 to
22 18. That happened in a negotiation. What I am trying to convey, and maybe doing so poorly, is
23 that we can't undervalue the importance of his going to jail.

24 Q I think we're all agreed on that point, but I think the question remains, would Mr.
25 Epstein not have faced potentially substantially greater exposure, in terms of sentencing, under

1 Federal charges as opposed to the State charges to which his sentence apparently was conformed in
2 the process of negotiating the NPA?

3 A So the two paths on the table were the 371 -- that might have been -- with the Rule 11,
4 that may or may not have been a higher -- if they had gone to trial and won, he certainly would have
5 faced a higher charge.

6 But the question is, do we go to trial, or do we -- and risk losing everything, right? At some
7 point, I forget which attorney, which of my supervisors said it -- I think it was --

8 Q Mr. Acosta, I think we agreed this morning that going to trial was not your only option.
9 A Federal plea was also an option, wasn't it?

10 A A Federal plea under a 371 with a Rule 11.

11 Ms. Stansbury. And what would the sentence for that have been?

12 Mr. Acosta. So, under a Rule 11, you recommend a plea. The maximum under a 371
13 would be 5 years. I think there was consensus in the office that he would not have pled to
14 5 years, and so we very possibly may have ended up putting aside the whole work release.

15 And I will own that the State was -- that I should have expected the State to sort of drop the
16 ball on that, and OPR is correct.

17 But under a 371, the sentence would have been -- it depended what we negotiated.

1 [4:09 p.m.]

2 BY MR. [REDACTED]:

3 Q I'm just going to note another one of CEOS Chief Oosterbaan's expressed views as set
4 forth in the OPR report -- this is at page 95 -- which notes that Mr. Oosterbaan reviewed the NPA and
5 told Mr. Lourie that he is, quote, "not thrilled about the NPA", described Epstein's conduct as
6 unusually, quote/unquote, "egregious" particularly because of its serious nature, and observed that
7 the NPA was, quote, "pretty advantageous for the defendant and not at all that helpful for the
8 victims," unquote.

9 Were you aware of Mr. Oosterbann's view in that respect?

10 A Two points. First, I was not aware of that. But secondly, I would note that that took
11 place after the agreement had been signed. And Mr. Oosterbaan was in our office for the meeting
12 where the terms were talked about and presented and had an opportunity to speak up at that time.
13 He didn't have to speak up, he may have assumed that he had previously communicated his views,
14 but that was an after-the-fact email.

15 Q Briefly with respect to the review that took place both in your office and at Main Justice
16 that had been requested by defense counsel. I just want to note for the record what the results of
17 those reviews were as, again, set forth in the OPR report, pages 101 and 102.

18 The report notes that your office undertook a, quote, "soup to nuts", unquote, review of the
19 investigation and that your Criminal Division chief, Robert Senior, quote, "concluded that the
20 proposed charges were sound, and he told Acosta that he would approve proceeding with a Federal
21 case," unquote.

22 Do you recall Mr. Senior communicating that to you?

23 A So that took place when we thought -- after the NPA had been signed, after we had
24 already agreed, we thought he may never follow through. It's been a while since we've looked at
25 the case afresh. And so investigation may have taken place in the interim. So let's have the new

1 Criminal chief review it soup to nuts. And if we have to go to trial, are we ready to go to trial?

2 And he said, yes, if you have to go to trial, you're ready to go to trial.

3 The question was not how would you proceed or would you favor a negotiated plea. The
4 question would be, if we have to go to trial, can we drop it? Can we drop an indictment.

5 Q And is that an accurate account of what Mr. Senior communicated to you?

6 A I believe what he said was, if we have to go to trial, we can be ready. That
7 wasn't -- that wasn't how should we proceed. That wasn't about the viability of a case betwe- -- or
8 a balance between a negotiated plea and going to trial. That's, if we have to go to trial, do we have
9 enough or do we need to go back and do more.

10 Q Let me try it a different way. Any reason to believe that the quote I just read into the
11 record is inaccurate?

12 A I believe that that is taken out of context, given the time that that review took place and
13 why that review took place.

14 The defense counsel at the time was charging that we had insufficient grounds for going to
15 trial. This was during the debate.

16 Q Mr. Acosta, I understand the context as you've just laid it out, but my question is simply,
17 are the quoted words accurate? Did Mr. Senior say that?

18 A And my response is, that is taken out of context, because the question was not, as
19 you're implying, with respect, how should we proceed. The question is -- we are being told that
20 we're acting unethically because we do not have a Federal case. And so Mr. Senior, you haven't
21 been involved, take a look and tell us if you believe that this is a -- an ethical case to bring if the
22 arguments are strong enough that if we have to go to trial, we can do so in an ethical manner.

23 Q Not hearing you disputing Mr. Senior's words, I'll move on.

24 The report goes on to note that upon additional review by CEOS, which concluded in May
25 2008, the section concluded that, quote, "Federal prosecution in this case would not be improper or

1 inappropriate," unquote. Again, is that consistent with your recollection?

2 A Again, the context of that is that there was an appeal to Washington saying that Federal
3 prosecution would be improper -- period, full stop -- negotiated plea, going to trial, that we did not
4 have a case even to obtain a 2-year sentence, that we had to drop the case.

5 Q And in that context?

6 A And in that context, CEOS concluded that we could go forward as we had been doing.

7 Q And just with respect to the question in general of review, both at senior levels within
8 your office and at Main Justice, how common in your experience is it for the target of a Federal
9 criminal investigation to obtain that amount of attention and review as Mr. Epstein did?

10 A In my experience, I've never had a case that has been elevated to that level. That said,
11 several high-profile cases have been done. Like, Jack Abramoff was done in conjunction and others
12 were done in conjunction with Main Justice. But that is the only case where multiple levels of
13 review were granted by Main Justice.

14 Q Would you agree that the notoriety of Mr. Epstein's counsel, along with their multiple
15 connections to senior personnel at the DOJ, helped him to secure that level of attention?

16 A I'm not going to speculate why DOJ granted the reviews. They did, and people have a
17 right to request a review by Main Justice.

18 Q So without speculating in this specific case, would you agree that as a general matter
19 criminal targets with prominent, highly placed, well-connected counsel are more likely to receive that
20 type of attention at DOJ?

21 A Again, I'm not going to speculate. He received the reviews and our office was
22 reviewed, and we received permission to go forward.

23 The argument that they presented at the meeting in Miami was that this wasn't a Federal
24 case, that it was a State case, and that we should drop the case. I refused to drop the case. They
25 went to the Criminal Division, they asked the same question. The Criminal Division said I had

1 authority to go forward. They went to the Deputy Attorney General's Office, they asked the same
2 question. The Deputy Attorney General said I had authority to go forward.

3 BY MR. [REDACTED]:

4 Q Mr. Acosta, FBI Director Kash Patel testified before the House Judiciary Committee on
5 Wednesday. And during his testimony he stated, quote, "The original sin on the Epstein case was
6 how it was handled by Mr. Acosta when he first brought the case in 2006, '07, and '08." And Dr.
7 Patel continued, quote, "Mr. Acosta allowed Mr. Epstein to enter into a plea agreement where he
8 served weeks in jail for trafficking minor women."

9 Do you have a response to that?

10 A Mr. Patel is entitled to say what he says. I think I've been very clear. The work
11 release was granted by the Palm Beach sheriff. Our office opposed it. Our office had every
12 expectation that he would have continuous confinement. We were upset -- more than upset. We
13 were -- what's the polite word for ticked off? I'll say ticked off. We were ticked off that he didn't
14 do so.

15 Our office transmitted an objection to the correctional department of Palm Beach. Our
16 office was upset over the manner in which he obtained this, because the place where he was doing
17 work release was shady, at best. And so it was what it was. We weren't happy.

18 You know, if we had known that he would have been on work release, we would never have
19 gone through with this. We insisted and actually at multiple points obtained assurances that it
20 would be continuous confinement, but clearly somehow Palm Beach gave it to him.

21 Q Fair to say you disagree with Director Patel?

22 A I'm not here to create a clash between one person or another. I'm here to give my
23 views. And I'm not about the quick headline. That's not who I am.

24 Ms. Stansbury. I'm just so perplexed. You know, this is one of those cases where the more
25 you learn about it, it becomes more and more perplexing.

1 I want to just dig in a little bit more about the --

2 Mr. Acosta. Yeah.

3 Ms. Stansbury. -- Federal nexus piece of this.

4 Mr. Acosta. Yeah.

5 Ms. Stansbury. And I know you had some things you wanted to say about transportation.

6 Mr. Acosta. Yeah.

7 Ms. Stansbury. And at the time at which the investigation occurred prior to the
8 recommendation that you gave for a non-prosecution agreement, there had already been victim
9 witness statements taken that indicated that Jeffrey Epstein had taken young women and children on
10 his plane and transported them across State lines, correct?

11 Mr. Acosta. Not to my knowledge.

12 Ms. Stansbury. Virginia Giuffre's statement had not yet been in the record?

13 Mr. Acosta. Again, I don't know what statement that was. Not to my knowledge. Here
14 is -- it goes to your point. The managing attorney from --

15 Ms. Stansbury. Did you -- just before you go into that, though. Again, perplexing to me.
16 So I know you said that you did not review the investigatory interviews yourself. So you're relying,
17 then, on secondary information from --

18 Mr. Acosta. So if I could --

19 Ms. Stansbury. Okay.

20 Mr. Acosta. Simply, the managing attorney, Mr. Lourie, Lourie believed the defense
21 argument that Epstein did not travel to Florida, quote, with the purpose of engaging in illicit sex with
22 a minor was more persuasive. So he believed the defense argument that Epstein did not travel to
23 Florida with the purpose was more persuasive.

24 Ms. Stansbury. But that's not the question I asked.

25 Mr. Acosta. It is the question, and here's why. Because we wouldn't have had this internal

1 debate over whether the purpose of his flying from New York to Florida was to have sex and whether
2 that had to be a purpose or the dominant purpose, if we had evidence that he actually transported a
3 minor to engage in sex trafficking. So if we had the evidence that you talked about, the supervisory
4 chain would not have been engaging in this secondary discussion of finding a workaround.

5 Ms. Stansbury. I do want to press on that just a little bit. I mean, the committing of crimes
6 across a State border regardless of intent to commit the crime across a State border, it's still a
7 Federal crime if it happens across the State --

8 Mr. Acosta. So to my recollection, we did not -- based on this, we did not have evidence
9 that he was transporting minors across State lines for purposes of sex.

10 Ms. Stansbury. Okay. So this is where I would like to follow up. So in the negotiation of
11 the non-prosecution -- as the plea agreement that was at the heart of the non-prosecution
12 agreement, as I'm understanding it, Ms. Villafana engaged in direct negotiations with Jay Lefkowitz.

13 Mr. Neiman. Lefkowitz.

14 Ms. Stansbury. Lefkowitz, thank you.

15 And so we do have copies of correspondence that was held by email between -- between
16 Epstein's attorneys and the line prosecutor that was instructed to pursue this plea agreement. And
17 they went back and forth about what State crime Jeffrey Epstein would plea to, right?

18 Mr. Acosta. Uh-huh.

19 Ms. Stansbury. And in this correspondence specifically there was a discussion about the
20 possibility of maybe Mr. Epstein could plead guilty to some sort of assault on his plane. And in that
21 correspondence, it is literally said by the line prosecutor, no, we can't do that because that's illegal
22 under 49 U.S.C. 46506, meaning it's a Federal crime.

23 So, in fact, your own line prosecutor was aware that there were women being transported
24 across State lines. And it was at the heart of the plea agreement that she was specifically talking to
25 Epstein's attorney about negotiating a State plea rather than a Federal plea.

1 Mr. Acosta. So with respect, and I'd have to see the full content of what -- where you're
2 quoting from. I don't interpret that as saying that she was aware that victims were being
3 transported across State lines for the purpose of sex. And the assault charge was something that, if
4 it had come up to me, I don't -- I think this went beyond assault, and this -- assault would not have
5 been a registrable --

6 Ms. Stansbury. It's an actual email between a Federal prosecutor and the defendant's
7 attorney. And I'll just read it. Quote, "Hi, Jay, I looked at some Eleventh Circuit cases on simple
8 assault and found some good language. I also learned that every moment --

9 Mr. Acosta. On simple assault, you said?

10 Ms. Stansbury. Yeah. She's in the middle of negotiating --

11 Mr. Acosta. Right. But she looked at Eleventh Circuit on what kind of -- on simple assault?

12 Ms. Stansbury. This says simple assault.

13 Mr. Acosta. Okay.

14 Ms. Stansbury. Okay. And then the next sentence says, "I learned that every moment that
15 one is aboard an enclosed civil airplane they are in the, quote/unquote, special aircraft jurisdiction of
16 the United States. So the assault charge is really a violation of 49 U.S.C. 46506, which doesn't
17 change the penalty."

18 And so the nature of this correspondence is that she is actually talking to Epstein's attorney to
19 come up with a State plea. And so she's saying you can't use that plea because it makes this a
20 Federal crime.

21 Do you see what I'm saying?

22 Mr. Acosta. So I'm not sure that -- again, I'm not sure that's what she's saying. And at
23 some point, you know, in this negotiation process, she really focused on getting him in jail and was
24 starting to get creative with some statutes. And ultimately, that didn't go anywhere because you
25 can't get that creative. Whatever he pled to had to be registrable, in my opinion.

1 And again, the office had extensive discussions about travel and about the travel to Florida
2 statute. Those discussions, we would have not had that entire line of discussions if there was
3 evidence that he transported minors for purposes of sex. I can't --

4 Ms. Stansbury. Is it -- oh --

5 Mr. Acosta. I can't recreate 20 years later what may have been in someone else's mind in an
6 email. What I can talk to is it wouldn't have made sense to have those extensive discussions and
7 debates about dominant or a purpose if there was an easier path to follow.

8 Ms. Stansbury. But let me ask you this. Was it normal for a Federal prosecutor who was
9 recommending Federal charges to engage in back-and-forth email with a defendant's attorney, giving
10 them ideas for potential lesser crimes that they could plea to?

11 Mr. Acosta. So --

12 Ms. Stansbury. Did you experience that in other cases?

13 Mr. Acosta. So --

14 Ms. Stansbury. Just a yes or no.

15 Mr. Acosta. So --

16 Ms. Stansbury. Did that happen during your time as U.S. attorney in other cases?

17 Mr. Acosta. So, first, I don't have the benefit of all these emails in all these cases, because
18 this case is fairly unique.

19 Ms. Stansbury. But just --

20 Mr. Acosta. But secondly, I think Ms. Villafana was asked about that in an OPR. And I do
21 want to defend her here for a minute.

22 Ms. Stansbury. I'm not impugning her character.

23 Mr. Acosta. You know --

24 Ms. Stansbury. I'm asking you about the prosecution of the case.

25 Mr. Acosta. But let me -- and I think her answer to OPR was, you know, look, she believes

1 it's really -- that that part of who she is as a prosecutor is to be friendly and to have these discussions.
2 And that in no way should be led -- should lead anyone to think she is anything but a tough
3 prosecutor. That in no way should imply that she was anything less than fully, fully dedicated to
4 putting him in jail.

5 Ms. Stansbury. But when you made the decision -- because you said it multiple times
6 today -- that you were going to proceed to not pursue Federal prosecution and we're going to go to
7 the non-prosecution agreement, did you direct her or someone in her chain of command to look for
8 a lesser crime under State jurisdiction for him to plead guilty to?

9 Mr. Acosta. No. The decision was made to proceed. She went forward and then
10 she -- she negotiated this, using her best judgement. No one --

11 Ms. Stansbury. Did you personally speak to Epstein's attorneys at any point during that
12 negotiation?

13 Mr. Acosta. So as I've said previously, they asked for a meeting. I thought the case would
14 go to Washington. I thought it was better to have the meeting in the office. We granted the
15 meeting. I was there, she was there, the first assistant was there, the Criminal chief was there,
16 representatives of the FBI was there, the managing attorney of the Palm Beach office was there.
17 They came in, they asked us to drop the case. I think they said in the alternative do some kind of
18 home confinement thing.

19 Ms. Stansbury. Uh-huh.

20 Mr. Acosta. Their argument was that it's a local crime, not a Federal crime, and that we
21 don't have evidence to make it a Federal crime. I said, I've heard you. Can you leave the room?
22 I looked around. I said, Does anyone disagree with our approach? No one spoke up. They
23 came --

24 Ms. Stansbury. Did you --

25 Mr. Acosta. They came back in and I said, We've heard you, but we're proceeding as we see

1 fit. And the meeting was concluded.

2 Ms. Stansbury. Did you socialize with them outside of the office?

3 Mr. Acosta. Not during this time. I knew them before, and we've talked about that. But
4 during the negotiation --

5 Ms. Stansbury. At any point between the beginning of the DOJ, FBI investigation and the
6 execution of the non-prosecution agreement, did you ever socialize with Jeffrey Epstein's attorneys?

7 Mr. Acosta. I did not socialize. There was a breakfast meeting that took place after the
8 agreement was signed. We've talked about that at that breakfast meeting. It was 20 years ago, I
9 don't remember the content.

10 My informed speculation is that that's when they were trying to recuse Ms. Villafana from the
11 case. The agreement had already been signed. She was recommending an associate of her
12 boyfriend, as we'll call it, the special master, the person that was going to help obtain monetary
13 recoveries for the victims.

14 I'm going to speculate it would have made sense for me to find out why they were trying to
15 recuse her, what the specifics were. We decided not to recuse her from the case. We thought
16 that she did not act incorrectly. Other than that, I have no recollection of any social interaction
17 with them.

18 Ms. Stansbury. Going back to the Federal --

19 Mr. Acosta. And I should add, I was in Miami, they were in Washington. And so it was
20 different cities as well.

21 Ms. Stansbury. Going back to the Federal nexus. It's our understanding that there were
22 financial records collected as a part of the investigation that included an investigation into
23 international wire transfers. Are you aware of that?

24 Mr. Acosta. I don't recall a financial aspect of this. We were focused on the inappropriate
25 acts that took place in Palm Beach.

1 Ms. Stansbury. Was it ever discussed as a part of the Federal investigation?

2 Mr. Acosta. This was 20 years ago. I don't remember --

3 Ms. Stansbury. You don't recall whether or not in the most high-profile cases of your life
4 that led to your resignation from the administration whether or not financial transactions were
5 investigated --

6 Mr. Acosta. With --

7 Ms. Stansbury. -- as a part of the investigation?

8 Mr. Acosta. With respect -- with respect, at the time it was high profile, it was not the most
9 high-profile case of my life at the time.

10 Ms. Stansbury. Uh-huh. That's fine.

11 Mr. Acosta. And -- but the focus --

12 Ms. Stansbury. But in any case --

13 Mr. Acosta. Right.

14 Ms. Stansbury. -- it's an established fact. Okay. You know, we've been working with the
15 majority to get copies of the financial records.

16 Why --

17 Mr. Acosta. Could I ask a question?

18 Ms. Stansbury. Yes.

19 Mr. Acosta. Are there communications about a financial aspect to the case? Are
20 there -- you know, we've got a full OPR report here of 300 pages. I don't believe that there's
21 references to a financial aspect to this case in this OPR report.

22 Ms. Stansbury. I'm asking you --

23 Mr. Acosta. But --

24 Ms. Stansbury. -- if --

25 Mr. Acosta. But -- but you said it was an established fact, and I'm just --

1 Ms. Stansbury. Well, let me --

2 Mr. Acosta. -- gently -- gently questioning how much of an established fact.

3 Ms. Stansbury. You were the prosecutor, not me. I'm asking you questions to understand
4 what you investigated.

5 So what I am trying to understand is, did you look at potential financial crimes and discuss
6 that as part of the decision as to whether or not to pursue Federal charges?

7 Mr. Acosta. To my recollection, the discussion was focused on the sex crimes.

8 Ms. Stansbury. And why not on the financial crimes?

9 Mr. Acosta. Again, this was 20 years ago, I can't speak to that.

10 Ms. Stansbury. Was that not a part of what was recommended through the line prosecutor?

11 Mr. Acosta. Again, I can't speak to that. I do not recall a discussion over financial -- if there
12 had been, you know, a Federal nexus on financial crimes, again, we wouldn't have had these long
13 discussions about a Federal nexus.

14 Ms. Stansbury. Okay. Well, we'll see where evidence leads us.

15 I think I'm done with that line, if you have other things.

16 Rep. Ansari, do you have anything else you want to ask?

17 Ms. Ansari. No, no.

18 Ms. Stansbury. Give me one moment here.

19 I think the final set of questions that we had were around the FBI's recommendation to arrest
20 Mr. Epstein. Based on communications that were transmitted to us, it looks like the FBI
21 communicated that they had prepared to arrest Mr. Epstein in this case but that the U.S. Attorney's
22 Office had, essentially, interfered in the arrest.

23 Mr. Acosta. So let me ask [sic] that question, then I want to backup to your prior question
24 about financial crimes.

25 I believe what you're referring to is a request to go forward when he was in the Virgin Islands.

1 That was discussed a little bit earlier today. And what I pointed out, at the time what we had was a
2 draft memo to go forward. That memo had not been vetted by the supervisory chain. In every
3 case, not just this case, the prosecuting attorney writes a memo, they write a draft. That draft then
4 gets vetted, it gets changed. Not everyone in the office agrees, the charges are changed.

5 I believe at that point, her direct supervisor had already commented that he did not agree
6 with her charging decisions, and it was the beginning of a conversation on how to charge.

7 And so it would not be the case that a U.S. Attorney's Office would authorize an arrest on a
8 draft document that hasn't been approved by the immediate supervisor and is still being drafted.

9 Ms. Stansbury. And why did you not sign off on it or why did -- why did the supervisor not
10 sign off on it?

11 Mr. Acosta. So based on the OPR report, I believe that there was a difference of opinion as
12 to the theory of the case and how to proceed. And that was the beginning of the discussions within
13 the office.

14 Ms. Stansbury. About the non-prosecution agreement?

15 Mr. Acosta. That eventually led -- that eventually led that way.

16 And I want to back -- back up, if I could, to -- to the extent there were financial crimes, those
17 financial crimes would not have been covered by and could have proceeded in other districts or
18 could have even proceeded in the Southern District because it's a different set of statutes. And so
19 just like New York proceeded with this, you know, with Ghislaine Maxwell, if there are financial
20 crimes, that could have proceeded. And so -- so if that was being investigated, it could continue to
21 have been investigated.

22 The two matters, unless they were so heavily interlinked, but even if they were, you know, it's
23 a separate set of matters to my mind. And so one would not have precluded the other, just --

24 Ms. Stansbury. Including the non-prosecution agreement would not apply to financial
25 crimes?

1 Mr. Acosta. So my read on the non-prosecution agreement is it would not apply to financial
2 crimes, no. And the non-prosecution agreement, I should also add to be clear, by its terms, was
3 limited to the Southern District of Florida, which is why the case in New York was able to be brought.

4 Ms. Stansbury. I have one more question. With regards to any evidence that may have
5 been collected by the FBI or DOJ, does the President have the authority to unseal those documents, if
6 there is not otherwise a very specific court order regarding them?

7 Mr. Acosta. If the seal is placed by the court, then it would have to be the court that goes to
8 that.

9 Ms. Stansbury. But any other document that is not under a court order can technically --

10 Mr. Acosta. Documents that aren't under court orders can be -- if there is no prohibition,
11 then whoever is the custodian of that document can proceed as they see fit.

12 Ms. Stansbury. I think that's it.

13 Mr. Acosta. That's my opinion. I'm not speaking for the executive branch. But absent a
14 prohibition, a custodian can proceed.

15 Ms. Stansbury. Well, I'm sure the White House attorneys thinks the President has total
16 power in this matter, but that's my editorializing.

17 Mr. Acosta. Off the record.

18 [Discussion off the record.]

19 Mr. [REDACTED]. We are now off the record.

20 Mr. [REDACTED]. Thank you. All right. We're done, sir.

21 [Whereupon, at 4:39 p.m., the interview was adjourned.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date